OVERSIGHT ON GOVERNMENT PROCUREMENT CODE AND RELATED AGREEMENTS

HEARING

BEFORE THE

SUBCOMMITTEE ON INTERNATIONAL TRADE

OF THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

JUNE 9, 1982

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OVERSIGHT ON GOVERNMENT PROCUREMENT CODE AND RELATED AGREEMENTS

WEDNESDAY, JUNE 9, 1982

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL TRADE,
COMMITTEE ON FINANCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:03 a.m. in room 2221, Dirksen Senate Office Building, Hon. John C. Danforth (chairman) presiding.

Present: Senators Dole, Danforth, Chafee, Heinz, and Grassley.

[The press release announcing the hearing and the prepared statements of Senator Dole and Senator Danforth follow:]

Press Release 82-139

PRESS RELEASE

FOR IMMEDIATE RELEASE
May 27, 1982

UNITED STATES SENATE
COMMITTEE ON FINANCE
Subcommittee on International Trade
2227 Dirksen Senate Office

FINANCE SUBCOMMITTEE ON INTERNATIONAL TRADE
SETS OVERSIGHT HEARING ON GOVERNMENT PROCUREMENT CODE
AND RELATED AGREEMENTS

Senator John Danforth, Chairman of the Subcommittee on International Trade of the Senate Committee on Finance, announced today that the Subcommittee will hold an oversight hearing on Wednesday, June 9, 1982 on the operation of the Agreement on Government Procurement and related Trade agreements. Senator Danforth noted that the Government Procurement Code has been in effect since January 1, 1981, and that the related U.S.-Japanese agreement on purchases by Nipon Telephone and Telegraph has been in effect since December 17, 1980. Senator Danforth indicated that, among other matters, the Committee will receive testimony on the effect of the Code on U.S. producers and the extent to which U.S. producers have been able to make sales to foreign governments and related organizations. The hearing will also focus on plans for the scheduled negotiation of entity coverage under the code. Senator Danforth stated that because of time constraints this initial hearing will be limited to Government witnesses only.

The hearing will begin at 9:00 a.m. in Room 2221 of the Dirksen Senate Office Building.

Written statements. Any person who desires to present views to the Subcommittee is urged to prepare a written statement for submission and inclusion in the printed record of the hearing. These written statements should be typewritten, not more than 25 double-spaced pages in length, and mailed with five copies to Robert E. Lighthizer, Chief Counsel, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510 20510, not later than Tuesday, June 22, 1982.

P.R. #82-139

STATEMENT OF SENATOR DOLE

MR. CHAIRMAN, THIS HEARING PROVIDES ANOTHER TIMELY OPPORTUNITY FOR THE COMMITTEE TO REVIEW THE RESULTS OF THE TOKYO ROUND OF MULTILATERAL TRADE NEGOTIATIONS (MTNs). ALREADY THIS YEAR, THE SUBCOMMITTEE, UNDER YOUR LEADERSHIP, HAS REVIEWED MANY OF THE AGREEMENTS COMPRISING THE MTNs--AND THE LACK OF AGREEMENTS IN SOME AREAS, SUCH AS TRADE IN SERVICES AND SAFEGUARDS PROCEDURES. I HAVE NOT BEEN ALTOGETHER ENCOURAGED BY THESE REVIEWS. IN PARTICULAR, I HAVE BEEN CONCERNED ABOUT THE FAILURE OF THE SUBSIDIES CODE TO BRING BETTER DISCIPLINE TO EXPORT SUBSIDIES AND OTHER UNFAIR PRACTICES IN AGRICULTURAL TRADE.

TODAY WE WILL HEAR FROM THE ADMINISTRATION ON WHAT SOME PREDICTED WOULD BE THE MOST IMPORTANT OF THE MTN AGREEMENTS--THE GOVERNMENT PROCUREMENT CODE. AMONG THE SEVENTEEN MTN AGREEMENTS APPROVED IN THE 1979 TRADE AGREEMENTS ACT, ONLY THE GOVERNMENT PROCUREMENT AND STANDARDS CODES ADDRESSED AREAS OF TRADE NOT PREVIOUSLY SUBJECT TO SIGNIFICANT INTERNATIONAL RULES. THE ADMINISTRATION IN 1979 ESTIMATED THAT $25 BILLION WORTH OF TRADE WOULD BE NEWLY OPENED WORLDWIDE TO INTERNATIONAL COMPETITION AS A RESULT OF THE TRANSPARENT PROCUREMENT PROCEDURES MANDATED BY THE CODE. I BELIEVE U.S. PRODUCERS ARE FULLY COMPETITIVE IN MOST SECTORS COVERED BY THE CODE, AND I HOPE OUR WITNESSES TODAY WILL PROVIDE EVIDENCE THAT THIS POTENTIAL IS BEING REALIZED.

MOST OTHER NATIONS ARE UNACCUSTOMED TO THE PRINCIPLE OF TRANSPARENCY IN GOVERNMENT PROCUREMENT ACTIONS, AND MOST U.S. FIRMS--PARTICULARLY SMALL BUSINESSES--DO NOT HAVE THE CAPACITY TO MONITOR POTENTIAL PROCUREMENTS. THE EXECUTIVE BRANCH THUS MUST PURSUE TWO MISSIONS IF THE CODE IS TO BE EFFECTIVE: TO POLICE VIGILANTLY COMPLIANCE WITH THE CODE BY OTHER CONTRACTING PARTIES, AND TO PUBLICIZE FOREIGN SOLICITATIONS WIDELY IN THE U.S. BUSINESS COMMUNITY. IN ITS "STATEMENT OF ADMINISTRATIVE ACTION" PRECEDING THE PASSAGE OF THE 1979 ACT, THE CARTER ADMINISTRATION OUTLINED OVER 40 ACTIONS TO ACCOMPLISH THESE TWO ESSENTIAL MISSIONS. I AM SUBMITTING FOR THE RECORD THE RELEVANT PAGES OF THE STATEMENT. I REQUEST THAT, TO SUPPLEMENT THEIR TESTIMONY TODAY, AMBASSADOR BROCK AND UNDERSECRETARY OLMER INSTRUCT THEIR STAFF LATER TO SUPPLY TO THE COMMITTEE A DETAILED REPORT ON WHAT STEPS THE EXECUTIVE BRANCH HAS UNDERTAKEN TO IMPLEMENT THE SUGGESTIONS IN THE 1979 STATEMENT.

I KNOW THAT OUR WITNESSES SHARE MY BELIEF THAT THE UNITED STATES MUST ACTIVELY PURSUE IMPLEMENTATION OF THE CODE. THIS IS ESSENTIAL NOT ONLY FOR THE DIRECT EXPORT OPPORTUNITIES THE CODE OFFERS, BUT MORE IMPORTANTLY, TO DEMONSTRATE THE VALUE OF EXTENDING INTERNATIONAL TRADE RULES TO NEW AREAS OF TRADE AND PREVIOUSLY UNDISCIPLINED TRADE BARRIERS. I UNDERSTAND THAT LITTLE DATA EXISTS BY WHICH TO VERIFY THE EFFICACY OF THIS CODE, BUT I BELIEVE THAT AFTER ONE AND ONE-HALF YEARS THE UNITED STATES SHOULD HAVE A STRONG SENSE OF WHERE THE CODE IS LEADING. I HOPE OUR WITNESSES CAN CONFIRM THAT THE DIRECTION IS POSITIVE.

THANK YOU.

STATEMENT OF CHAIRMAN JOHN C. DANFORTH

June 9, 1982

Subcommittee on International Trade

Oversight Hearing on the Government Procurement Code and Related Agreements

When negotiations on the Government Procurement Code were completed as part of the Tokyo Round of Multilateral Trade Negotiations, the Code was heralded as perhaps the single most important agreement in the MTN in terms of expanded export opportunities. One Administration document describing the results of the MTN cited an estimated $25 billion in annual foreign government procurement that would be opened up to competitive U.S. exporters.

Perhaps the Government Procurement Code represents the clearest example of a multilateral agreement based on the principle of reciprocal market access--where each country was expected to include government entities with purchases substantially equivalent to those offered by other Code signatories, in terms of quantity and quality, and only those countries participating in the Code were allowed to participate in the markets opened up by the Code.

The Government Procurement Code has now been in place for one-and-a-half years, and this Committee is extremely interested in learning whether the agreement appears to be living up to expectations. To this end, a number of questions deserve careful study and substantive answers.

-- Are foreign governments living up to their commitments under the Code?

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-- Are U.S. exporters being given adequate opportunities to make sales to foreign governments? and

-- How have these new opportunities under the Code translated into actual sales?

A key agreement of interest to the Committee, related to the Government Procurement Code, is the bilateral agreement between the United States and the Government of Japan on procurement by Japan's quasi-governmental telecommunications entity--Nippon Telephone and Telegraph, or NTT. This agreement was reached in December of 1980 and may prove to be the key indicator of whether or not Japan is serious about opening its market to competitive foreign products. The success or failure of this agreement--designed to provide access for U.S. firms in a high technology sector that has been traditionally controlled, nurtured, and protected by Japan--will give us important insights about real Japanese intentions.

To this end, the Committee would be particularly interested in any successes American firms have had in moving into the Japanese market for telecommunications--both in terms of direct sales to NTT, joint research and development activities, and in terms of sales in the interconnect market.

Finally, in view of the renegotiation of the Government Procurement Code scheduled for next year, the Committee would be interested in Administration intentions and activities for broadening the coverage of the Code with respect to certain sectors not adequately covered in the original agreement. In particular, we would be interested in plans for the inclusion of such sectors as telecommunications, heavy electrical equipment and transportation equipment--sectors that could further expand the benefits accruing to competitive U.S. exporters under the Government Procurement Code.

Senator DANFORTH. When negotiations on the Government Procurement Code were completed as part of the Tokyo round of multilateral trade negotiations, the Code was heralded as perhaps the single most important agreement in the MTN in terms of expanded export opportunities.

One administration document describing the results of the MTN cited an estimated $25 billion in annual foreign government procurement that would be opened up to competitive U.S. exporters.

The Government Procurement Code has now been in place for 1½ years, and this committee is interested in learning whether the agreement appears to be living up to expectations. To this end, a number of questions deserve careful study and substantive answers.

Are foreign governments living up to the commitments under the Code?

Are U.S. exporters being given adequate opportunities to make sales to foreign governments?

And, how have these new opportunities under the code translated into actual sales?

The key agreement of interest to the committee is the bilateral agreement between the United States and the Government of Japan on procurement by Nippon Telephone and Telegraph, or NTT. This agreement may prove to be the key indicator of whether or not Japan is serious about opening its markets to competitive foreign products.

To this end, the committee would be particularly interested in any successes American firms have had in moving into Japanese markets for telecommunication both in terms of direct sales to NTT, joint research and development activities, and in terms of sales to the interconnect market.

Finally, in view of the renegotiation of the Government Procurement Code scheduled for next year, the committee would be interested in administration intentions and activities for broadening the coverage of the code with respect to certain sectors not adequately covered in the original agreement, and particularly we would be interested in plans for the inclusion of such sectors as telecommunications, heavy electrical equipment, and transportation, sectors that could further expand the benefits accruing to competitive U.S. exporters under the Government Procurement Code.

Senator Dole?

Senator DOLE. Well, thank you, Mr. Chairman. I have a brief statement which I would ask be made a part of the record, and I would only take a moment to summarize it.

This hearing does provide another timely opportunity for the committee to review the results of the Tokyo round of multilateral trade negotiations.

Already this year the subcommittee under your leadership has reviewed many of the agreements comprising the MTN's and the lack of agreements in some areas such as trade and services and safeguard procedures. I have not been altogether encouraged by some of these reviews, particularly I have been concerned about the failure of the Subsidies Code to bring better discipline to export subsidies and other unfair practices in agricultural trade.

But, Mr. Chairman, I thank you for your leadership, and I am anxious to hear our two witnesses this morning as we address these important problems.

Senator DANFORTH. Senator Heinz?

Senator HEINZ. Mr. Chairman, thank you. I have an opening statement, and I ask unanimous consent that it be placed in the record in its entirety.

[The prepared statement of Senator Heinz follows:]

SENATOR JOHN HEINZ JUNE 9, 1982

Subcommittee on International Trade Oversight Hearing on the Operation of the Government Procurement Code and Related Agreements

Opening Statement

Mr. Chairman, I am looking forward to this hearing with considerable interest, in large part because of my long standing skepticism about the Government Procurement Code.

In 1979, when Congress considered and ultimately adopted legislation implementing the Code, I had a number of reservations about that action, which I suspect have been borne out by the results since then. Essentially my concern has been that any system that depends on mutual transparency and openness in a decision making process which has historically been closed and subjective is one which is likely to work to our disadvantage, because, as usual, we will play by the rules while the others find ways to avoid them.

While I think we all support an open procurement system in theory, this is as clear a case as any I can think of that requires use of the principle of reciprocity. Procurement is a government controlled process, and governments that open their procurement are in an excellent position to insist on equivalent concessions. Indeed, the Code itself has reflected this idea in its listing, by country, of agencies covered -- itself a denial of the most-favored-nation principle. A reciprocity standard is particularly important, if, as I fear, other nations will continue their reluctance

to adhere to the same standards of transparency that we do.

Today we will hear testimony as to the progress we have made with the Code in the past 18 months. Although our witnesses will focus primarily on Japan and NTT -- the hardest case in the most difficult country -- I hope that either now or at a later date they will also be able to quantify for us what the Code has meant to U.S. businesses in terms of increased access, and what it has cost us in terms of foreign procurement in this country. I understand that penetrating long-closed procurement systems will be a time-consuming and difficult process for our manufacturers. At the same time, however, it is our responsibility to review their efforts carefully and to press reluctant governments to meet the commitments they have undertaken by signing the Code in the first place. That is an oversight function we should exercise before our government enters into any effort to broaden or deepen the coverage of the Code through further negotiations.

Let me make clear for the record, Mr. Chairman, that this is one senator who will be most reluctant to support further negotiations on government procurement in the absence of hard evidence that other nations are meeting their present commitments and that there is a significant, quantifiable favorable impact on Americans seeking to do business with foreign governments.

Senator HEINZ. I want to subscribe to what Senator Danforth said regarding the Procurement Code. I think it's a good idea to take a look at the Procurement Code, but if we are going to open our doors anymore to anybody else, I hope that either now or at a later date the administration will be able to quantify for us what the code has meant to U.S. business in terms not just of increased theoretical access but in terms of additional market penetration and sales. And we would like to know what it costs us in terms of foreign procurement in this country.

So let me make it clear for the record, Mr. Chairman, this is one Senator who will be, if you will excuse the expression, an "I'm from Missouri—show me" kind of Senator in this case who will be reluctant to support further negotiations on Government procurement in the absence of hard evidence that other nations are meeting their present commitments and that there is a significant quantifiable, favorable impact on Americans seeking to do business with foreign governments.

But I would add this: I think this Senator and probably a good number of the members of this committee in the Congress will be very reluctant to further open our doors, depending on the kind of stance that this administration takes in trade generally.

We are privileged to have Lionel Olmer of the Commerce Department, and you, Bill, our Special Trade Representative. You represent, between you, all the action in trade; and yet we know that so far trade has been pretty much of a one-way street. A lot of imports come into this country; very little, except in the agricultural area, goes out of this country—important as what exports we have are.

If the administration is unable to convince Congress that it is indeed effectively fulfilling the obligations that we wrote into the 1979 trade act and into the other existing trade laws of this country, which imply not only fair trade and free trade but reciprocal trade, I think it is going to be very difficult to achieve anything in this area.

I might also add that we have about 39 hours between now and midnight tomorrow night. Tomorrow at midnight the clock strikes action on the petitions filed by the American steel industry on countervailing duty cases. Between now and then there are two things that can happen: either there will be a voluntary agreement and either that will be satisfactory or unsatisfactory, or if it is unsatisfactory Commerce will have to reject it and then impose countervailing duties in those cases where subsidy has been found.

Now, although we tried to limit the discretion of the Commerce Department in determining subsidy by not allowing unjustifiable offsets, it is still true that there is always flexibility, there is always judgment to be used in the determination of subsidy. And it is theoretically possible—I am not saying the Commerce Department is going to do this, but it is theoretically possible—for the Commerce Department to find only a nominal subsidy, and as a result of that be free from the judicial review requirements that would otherwise apply if there was a negative finding of subsidy.

But if some kind of nominal determination is made, frankly I think it is not going to make things rough just for anything anybody ever wants to do with the Procurement Code—I don't know

what you do want to do—but it is going to precipitate a lot of legislation that I'm sure you will view with alarm, because you will view it as legislation designed to be very protective of certain industries, maybe all industries. You will light a fire that will precipitate perhaps passage of a better approach to the law, particularly section 201, than we have today.

I would be remiss if I didn't take this opportunity, with 39 hours running on the clock, to point that out.

Mr. Chairman, I thank you.

Senator DOLE. Mr. Chairman, in the statement I will make a part of the record I do indicate that in 1979 the Carter administration outlined over 40 actions to accomplish what are considered two essential missions: one is to police compliance and the other is to publicize foreign solicitations. I am submitting for the record the relevant pages of the statement.

[The information follows:]

96th Congress, 1st Session . . . . . House Document No. 96-153, Part II

TRADE AGREEMENTS ACT OF 1979
STATEMENTS OF ADMINISTRATIVE ACTION

A DRAFT OF PROPOSED LEGISLATION TO APPROVE AND IMPLEMENT THE TRADE AGREEMENTS NEGOTIATED UNDER THE TRADE ACT OF 1974, AND FOR OTHER PURPOSES, TOGETHER WITH STATEMENTS OF ADMINISTRATIVE ACTION SUMMARIZING CHANGES IN UNITED STATES TRADE LAW NECESSARY OR APPROPRIATE TO IMPLEMENT THE AGREEMENTS, SUBMITTED AS AN ACCOMPANYING PART OF THE MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING THE AGREEMENTS, PURSUANT TO SECTION 102 OF THE TRADE ACT OF 1974

JUNE 19, 1979.—Message and accompanying papers referred to the Committee of the Whole House on the State of the Union and ordered to be printed

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TITLE III -- AGREEMENT ON GOVERNMENT PROCUREMENT

I. Summary

The Agreement on Government Procurement requires Parties to the Agreement to administer certain procurement programs so that products and suppliers of products from another Party are treated no less favorably than domestic suppliers and so that there is no discrimination among such foreign products or suppliers.

Title III of the Trade Agreements Act of 1979 will permit the President to implement the obligations of the Agreement by exercising the legislative authority contained therein and by conforming regulations and administrative practice to meet the letter and spirit of the Agreement. The procedures required by the Agreement largely conform to the existing U.S. procurement system. As a result of this, only minimal changes will be required in U.S. procedures. Current U.S. discrimination against foreign purchases (e.g., the Buy American preference) will be waived subject to a number of exclusions and only with respect to purchases specifically covered by the Agreement.

The Administration will take all action necessary to make certain that other countries benefitting from open competition for United States government procurement offer reciprocal competitive opportunities to United States products and suppliers of such products. Discrimination against U.S. suppliers in foreign procurement markets is addressed in the Agreement by requiring nondiscrimination and open and transparent application of procurement procedures.

The Agreement covers:

a. only the purchase of goods;

b. only those purchases of goods made by certain government agencies, that is, those agencies offered in the U.S. "entity list" in Annex I to the Agreement;

c. only those purchases of goods by the listed agencies that are above a threshold of contracts of a value of 150,000 Special Drawing Rights (SDRs) (approximately $190,000) or more. SDRs are the International Monetary Fund's international reserve unit of account based on a basket of the currencies of 16 different countries.

The Agreement does not cover:

a. procurement of arms, ammunition, war materials, and procurements indispensible for national security or national defense purposes. Nor do the requirements apply to measures necessary to protect public morals, order or safety, human and animal life, and plant life, industrial and commercial property, or relating to the products of handicapped persons, of philanthropic institutions or of prison labor.

b. any construction contracts;

c. any service contracts (the Agreement does include services incidental to the purchase of goods, provided that the value of such services does not exceed the value of the goods, but will not affect U.S. cargo preference legislation);

d. certain items purchased by the Department of Defense (DOD) ("Berry Amendment" types of restrictions for textiles, clothing, shoes, food, stainless steel flatware, certain specialty metals, buses, hand tools, ships, and ship components);

e. tied-aid procurements under AID foreign assistance programs;

f. all purchases by government agencies not listed in Annex I to the Agreement (Department of Transportation; Department of Energy; Bureau of Reclamation of the Department of the Interior; Army Corp of Engineers, the Tennessee Valley Authority (TVA); three parts of the General Services Administration: (Automated Data and Telecommunications Service, Region 9, and the National Tool Center); COMSAT; AMTRAK; CONRAIL; and U.S. POSTAL SERVICE);

g. all purchases by State and local governments, including purchases by State and local authorities with federal funds;

h. all purchases under small or minority business set aside programs;

i. purchases by the Department of Agriculture for farm support programs and human feeding programs.

II. Administrative Action

Regulatory changes required are minimal and are listed at the end of this section.

For purchases covered by the Agreement (i.e. from designated countries, by covered entity, above threshold, not subject to an exclusion) the President will waive the application of all U.S. law discriminating against eligible products of foreign origin and suppliers of such products. Purchases not covered by the Agreement will be unaffected. As a result, the President may, consistent with the Agreement, continue the present application of all existing U.S. law that discriminates in favor of any domestic supplier, including, for example, the 6 percent and 12 percent Buy American differential, or the 50% differential for DOD.

For procurements covered by the Agreement, the President will exercise the authority granted by the proposed legislation to encourage foreign governments to accord appropriate reciprocity in competitive government procurement opportunities to U.S. products. For those procurements covered by the Agreement he will prohibit the procurement of the products of major industrialized countries that do not qualify for a waiver. This prohibition will be made effective at the time the first waiver goes into effect, and, after a maximum of two years of the status quo, the prohibition will be extended to all other countries not eligible for a waiver. The Interagency Trade Policy Committee will provide general policy guidance and an opportunity for interagency review of case-by-case waivers of the prohibition based upon factors concerning, for example, economic and commercial impact and international trade objectives. The same factors will be relevant for DOD waivers, but will also include national security considerations.

The Agreement's time period for keeping bids open will be implemented by U.S. regulations. All bidders on contracts covered by the Agreement benefitting from a waiver will be required to certify the country of origin of the goods they propose to supply under the contract. False certifications will be subject to penalties prescribed by law. Customs Regulations will be amended to provide for prompt rulings and advisory opinions by Customs when questions arise concerning the country of origin of the products. The final rulings will be subject to judicial review.

Under the Agreement, technical assistance on government procurement for developing countries will be accomplished by responding to requests from developing countries to signatory governments on particular procurement contracts or relating to the signatory government's overall procurement system.

Such inquiries will be handled through an information center and directed to each procurement entity's existing procedures or directed to the Office of Federal Procurement Policy.

Full rights of inquiry by the supplier at any point in the procurement process and an obligation on the part of the procuring agency to provide full and timely responses thereto will be required. An administrative machinery to resolve disputes during this process will be maintained.

International cooperation with other signatories may also be appropriate.

All matters relating to the implementation of the Agreement will be coordinated by the Office of the Special Representative for Trade Negotiations (STR). Agencies will be directed to consult with, and where appropriate obtain the approval of, the STR on behalf of the Trade Policy Committee on matters relating to the obligations of the United States under the Agreement.

In order to take full advantage of the Agreement, the Administration will make a concerted effort to inform U.S. businesses of foreign procurement opportunities. Prior to the effective date of the waiver of the application of U.S. law under Section 301 of the proposed bill, the Administration will (1) put in place a mechanism to assist U.S. firms in taking advantage of the benefits of the Agreement, (2) provide for the domestic implementation of the Agreement, and (3) provide for monitoring foreign implementation to assure the U.S. of other countries' compliance, and preparing for future negotiations.

The Agreement on Government Procurement will open major new markets to U.S. exporters. However, the success of the Agreement will depend on the awareness of the U.S. business community of the provisions of the Agreement both in general terms and in terms of specific sales opportunities. This could be accomplished through the following means:

-- Developing a speaker program to brief chambers of commerce and industry associations on the benefits of this Agreement;

-- Meeting with state and local officials involved in industrial development to brief them on the Agreement;

-- Dissemination of the Agreement, as well as simple concise summaries, to all interested parties;

-- Inform all interested parties of mechanisms established through U.S. embassies and posts abroad to aid American firms in taking advantage of procurement opportunities;

-- In compliance with the Agreement, state and local governments, entities not covered by the Agreement, and authorities within the United States, will be given information in accordance with Part I, paragraph 2 of the Agreement.

Assistance of U.S. firms may include the following action:

-- Make information on foreign tendering opportunities generally available;

-- Develop a system to target and contact U.S. firms -- particularly small and minority firms -- that are likely to be competitive in foreign government procurements;

-- Institute a subscriber service for firms that are interested in receiving bidding information on a continuing basis for a particular product category or categories;

-- Establish liaison with state and local governments with a view to using their services, where such services exist, to disseminate general information on the Agreement and information on specific tendering opportunities;

-- Provide advice and assistance in dealing with foreign governments;

-- Provide technical assistance to small and minority firms to help them meet tender requirements;

-- Provide expedited consideration of export licenses;

-- Develop a catalogue of prospective overseas agents and distributors that are particularly well qualified to represent U.S. companies wanting to pursue procurement opportunities.

Specific action abroad may also be necessary, including:

-- Rapid reporting on bidding opportunities, including appropriate assistance in the translation of necessary documents;

-- Assistance to U.S. firms wishing to enter bids and aggressive action by commercial officers of foreign posts in support of suppliers of U.S. products throughout the procurement process;

-- Collect and transmit data made available on government purchasing as required by the Agreement;

-- Ongoing reporting on the structure of Agreement signatories' purchasing mechanisms;

-- Report on the types and value of services purchased by Agreement signatories;

-- Monitor and report on the success, or failure, of individual U.S. firms seeking to compete in the government procurement market to pinpoint areas where U.S. exporters need government advice or assistance to improve their track-record or to continue their success;

-- Investigate allegations of non-compliance;

-- Report on prospective overseas agents and distributors as necessary to prepare the catalogue discussed under domestic measures;

-- Report on individuals available for panels;

-- Continue efforts to expand Agreement membership or establish bilateral arrangements where advantageous;

-- Provide technical assistance to LDCs if appropriate.

The Office of the Special Representative for Trade Negotiations (STR), in coordinating domestic implementation, may establish mechanisms to accomplish the performance of the following functions:

-- Assure that individual departments and agencies fully comply with Agreement requirements;

-- Establish a cental point for inquiries from foreign signatories on U.S. procurement practices;

-- Collect aggregate procurement data as required by Agreement;

-- Consider and act on complaints of non-compliance by other signatories.

In order to monitor Agreement implementation by other countries and their subsequent compliance two merchanisms will be necessary:

-- Collect and analyze data supplied by signatories as required by the Agreement to be used in the detection of any systematic non-compliance and to create a data base on foreign procurement practices;

-- The maintenance of an effective inter-agency process to review complaints of non-compliance made by U.S. firms and to prepare and review dispute settlement cases as necessary.

Preparation for further negotiations will involve the following elements:

-- Ongoing analysis of data, supplied as required by the Agreement, to assess the balance of concessions and to pinpoint non-covered foreign entities of particular interest to U.S. exporters;

-- A study of the effects on U.S. industry of the failure of our trading partners to provide coverage of the basic product sectors;

-- As assessment of the types and value of services purchased by governments as well as the feasability of extending the Agreement to such purchases;

-- A review of the structure and relation-ships of procurement entities in the countries that have signed the Agreement including a delineation of executive

entities, quasi-central government entities and entities having a management control relationship with their central government.

The private sector will play a critical role in monitoring Agreement compliance. The Administration will rely to a large extend on reports from the private sector on the existance of foreign violations of the obligations of the Agreement. In addition, the private sector advisory system will be counted on to assess the balance of concessions under the Agreement and to assist in preparing for further negotiations regarding coverage.

There are a number of actions related to the General Agreement on Tariffs and Trade (GATT) that may be necessary, including:

- -- Three year negotiation on expanded coverage;
- -- Meetings of Committee on Government Procurement
  - -- Required to meet once a year;
  - -- Required to meet at the request of any party to a dispute;
- -- Functions of Committee on Government Procurement
  - -- Review the implementation and operation of the Agreement;
  - -- Constitution of subsidiary bodies as appropriate;
  - -- Constitution of panels for dispute settlement purposes;
  - -- Recommendations for settlement of disputes;
  - -- Authorization of retaliatory measures.

Specific Regulatory Changes. Changes in U.S. procurement regulations will be made in order to conform with U.S. procedures with the following underscored provisions of the Government Procurement Agreement as implemented under the Trade Agreements Act of 1979:

Threshold - Part I, paragraph 1(b) - New regulation will be provided regarding dollar equivalent of 150,000 SDR threshold.

Rule of Origin - Part II, paragraph 3 -- Defense Acquisitions Regulations (DAR) and Federal Procurement Regulations (FPR) will provide that bidders must certify as to origin of goods to be supplied. Customs service regulations will be amended to provide for prompt advisory opinions and final rulings.

Tendering Procedures - Part V

a. Paragraph 4 will require Section I, part 10 of both the DAR and the FPR covering the synopses in the Commerce Business Daily will be amended to state the language in which tenders must be submitted.

b. Paragraph 6 will require a new regulation to require annual publication of bidders lists. (Titles only)

c. Paragraph 10 will require revision of DAR and FPR, Section 2, part 201 and Section 3, to specify 30 day minimum bidding time.

d. Paragraph 12 concerning tender documentation will require revision of both Section 2 (formal advertising) and Section 3 (negotiated procurement) of DAR and FPR to include language in which tenders must be submitted.

Information and Review - Part VI

Paragraph 3 will require amending DAR and FPR Section 3-508.3 which currently requires "prompt notification" to unsuccessful offerors to require a seven day maximum to conform to the Agreement.

Reports. Under the proposed legislation the Administration will prepare and provide the following reports:

a. Report on Impact of Foreign Restrictions on the U.S. Economy and Evaluation of Means to Attain Reciprocity. Required by Sec. 304(c); to be included in report due July 1, 1981;

b. Report on Presidential Action to Establish Reciprocity. Required by Sec. 302(d); due October 1, 1981;

c. Reports on Negotiations in the Event of Inadequate Progress in Expanding Coverage. Required by Sec. 304(d)(1), due at time President determines renegotiations are not making satisfactory progress, etc.;

d. Report on Appropriate Action to Seek Reciprocity. Required by Sec. 304(d)(1) as a further report on inadequate progress in expanding coverage;

e. Annual Reports to Include Action Taken to Establish Sectorial Reciprocity with Major Industrial Countries. Required by Sec. 304(d)(3); to be included in report due annually under Sec. 163(a) of the Trade Act of 1974;

f. Report on U.S. and Foreign Rules of Origin. Required by Sec. 305(c); due as soon as practicable after the close of a two year period following the effective date of the first waiver under Sec. 301(a);

g. Report on Economic Impact of the Waiver of the Application of the Buy American Act Including Employment in Various Regions and Procurements from Labor Surplus Areas. Required by Sec. 306(a); due prior to renegotiations under Part IX, para. 6 of the Agreement;

h. Report on Labor Surplus Area Objectives and Targets. Required by Sec. 306(b); final report due July 1, 1981, interim reports, essentially progress reports, due beginning January 1, 1980.

Labor Surplus Area Programs. Under the terms of the Agreement procurement set-asides to eligible labor surplus area concerns which are not small or minority concerns may be waived for purchases covered by the Agreement, but only for those contracts which are above the Agreement threshhold of approximately $190,000, let by entities covered by the Agreement, and not subject to an exclusion. However, the Administration's commitment to the labor surplus set-aside program, as currently administered pursuant to Public Law 95-89, Defense Manpower Policy (DMP) 4-A, and Executive Order 12073, will not be diminished.

The objectives of DMP4-A and E.O. 12073, and in particular Section 1-101 of the Order, which states, "Executive agencies shall emphasize procurement set-asides in labor surplus areas in order to strengthen our Nation's economy" will not be diminished. The procurement targets will be established for labor surplus areas solely on the basis of those objectives.

In preparing the reports required by the proposed bill an assessment of the targets will be required on an agency-by-agency basis. The results of this assessment will be available for use by the Administrator of the General Services Administration in establishing "specific labor surplus area procurement targets for Executive agencies" pursuant to Section 1-202 of E.O. 12073.

All executive agencies will be made aware that the priorities established by Public Law 95-89 for use in awarding contracts and encouraging the placement of subcontracts, categories (1)-(3), or any revised categories applying to small businesses in labor surplus areas, will not be affected by the implementation of the Agreement. In other words, all agencies will continue to be bound by the statutory requirement that priority be given to small business concerns which are located in labor surplus areas, before all other small business concerns. All executive agencies, including those covered by the Agreement, will therefore continue to be subject to the provisions of P.L. 95-89, with the sole exception that the provision dealing with set-asides to concerns in labor surplus areas which are not small businesses may be waived for purchases covered by the Agreement.

All executive agencies will continue to implement the provisions of P.L. 95-507 and Section 7(c)(3) of DMP4-A calling for the placement of subcontracts with small business concerns located in areas of labor surplus or high unemployment. In particular, those agencies which are covered by the Agreement and which therefore may not be able to make set-asides to firms in labor surplus areas except for small or minority firms, will emphasize subcontracting to firms in labor surplus areas pursuant to Sec. 7(c)(3) of DMP4-A to the extent necesssary to meet the objectives of that policy. The priorities established by P.L. 95-89 will not be hindered in their full implementation with respect to the placement of subcontracts.

The provisions of DMP$-A, regarding the placement of grants with eligible labor surplus area concerns, will no be adversely affected by the proposed bill.

Small and Minority Business Set-asides. All contracting officers of all executive agencies will be made aware of their responsibilities with respect to the small and minority business set-aside and subcontracting programs, and the fact that these programs are excluded from the Agreement.

Future Expansion of the Agreement and Maintaining a Balance in the Rights and Obligations of the Agreement. The Administration will seek, in the renegotiations provided for in Part IX, paragraph 6 of the Government Procurement Agreement, more open and equitable market access abroad, and the harmonization, reduction, or elimination of devices which distort trade or commerce related to government procurement with the overall goal of maximizing the economic benefit to the United States through maintaining and enlarging foreign markets for products of United States agriculture, industry, mining, and commerce, the development of fair and equitable market opportunities, and open and non-discriminatory world trade. Further, the Administration will seek, consistent with the above mentioned

overall objectives and to the maximum extent feasible, with respect to appropriate product sectors, competitive opportunities for United States exports to the developed countries of the world equivalent to the competitive opportunities afforded by the United States, taking into account all barriers to, and other distortions of, international trade affecting the sector. Further, the Administration will seek the inclusion of procurements of insurance, and study the desirability of including other services. This will be done with Congressional and private sector consultation.

Any amendment to the Agreement expanding its coverage or restoring or maintaining the balance of rights and obligations of the Agreement will be implemented pursuant to section 301(c), Modification or Withdrawal of Waivers and Designations, or section 304(e), Extension of Nondiscrimination and National Treatment. Under those provisions any modification to extend the coverage of the Agreement resulting in a waiver under Sec. 301(a) for purchases not covered by the Agreement as approved in conjunction with the Trade Agreements Act of 1979 would be subject to such consultation with the Congress and private sector advisors as is required by section 135 and chapter 6 of the Trade Act of 1974.

Description of Major Provisions of the Bill

Section 301 -- General Authority to Modify Discriminatory Purchasing Requirements

(a) Presidential Waiver of Discriminatory Purchasing Requirements. --

This section grants the President the authority to waive the application of discriminatory government procurement law, the Buy American Act and those labor surplus areas set-asides that are not for a small business. This waiver is authorized only in the four circumstances contained in subsection (b), and only for purchases "covered" by the Agreement. Purchases covered by the Agreement are those made by the U.S. agencies designated in the Agreement that are above 150,000 SDR's (approximately $190,000), and not subject to an exclusion, such as national security and small or minority business set-asides.

(b) Designation of Eligible Countries and Instrumentalities. --

This section specifies four circumstances in which the President may designate a foreign country as eligible for a waiver. The first three require the foreign country to provide appropriate reciprocal competitive government procurement opportunities to U.S. products. The fourth is for the "least" developed countries (the countries on the United Nations list, presently 29 in number).

Senator DOLE. I would hope that perhaps the Ambassador and the Under Secretary could instruct their staffs to supply what the followup is on these 40 different areas to see what has been accomplished since 1979.

[The following answers were subsequently supplied:]

1. Developing a speaker program to brief Chambers of Commerce and industry associations on the benefits of the Agreement.

The Department of Commerce has an extensive speaker program, including general MTN seminars, country and industry seminars where time is earmarked to cover the procurement code, as well as specific seminars on the Government Procurement Code. Several Commerce District Offices have hosted "how to" seminars, including Seattle, Portland, and Greensboro, N.C. We are working with industry associations to supply speakers at annual conventions to conduct workshops on the Code. The Foreign Commercial Service, in conjunction with overseas American Chambers of Commerce, has sponsored seminars on government procurement in London, Rome, Milan, Frankfurt, Paris and Rotterdam. These seminars have provided an opportunity to inform subsidiaries and affiliates of American companies, as well as importers of American products, of the opportunities created by the Code.

2. Meeting with state and local officials involved in industrial development to brief them on the Agreement.

The Commerce Department has a long established history of effective liaison with state and local government offices active in the international trade field and supplies such cooperating organizations with publications and related materials on the foreign government procurement opportunities available.

3. Dissemination of the Agreement as well as simple concise summaries, to all interested parties.

As part of its public awareness program, the Department has prepared two publications describing the Government Procurement Agreement--a short pamphlet, as well as a more detailed booklet, which were designed to assist the public in understanding the Agreement's obligations and taking advantage of the opportunities presented by the Agreement and related provisions in United States trade laws. Copies of these publications and the text of the Agreement are available from the Trade Advisory Center, the Office of Multilateral Affairs, and are available at the 47 Commerce Department District Offices.

4. Inform all interested parties of mechanisms established through U.S. embassies and posts abroad to aid American firms in taking advantage of procurement opportunities.

The Department of Commerce has an extensive publicity and exporter awareness campaign including publications, a media campaign to attract additional subscribers to the Trade Opportunity Program, a training program for trade specialists in our District Offices and country specialists in Washington, and speaking programs to inform interested parties of the acquisition/dissemination program we have designed and implemented to put U.S. firms in touch with new foreign

government procurement opportunities. In addition, articles have been published in Business America describing the system for receiving information on foreign procurements.

5. In compliance with the Agreement, State and local Governments, entities not covered by the Agreement, and authorities within the United States, will be given information in accordance with Part I, Paragraph 2 of the Agreement.

The Office of the U.S. Trade Representative has contacted each state governor and all non-code covered entities to inform them of the requirements of the code and its benefits.

6. Make information on foreign tendering opportunities generally available.

The Department, through general press releases, articles in Business America magazine, notices in Commerce Business Daily, press briefings, and various Departmental publications, has identified the MTN Agreement on Government Procurement as opening a vast range of new tendering opportunities for the U.S. business community. Specific tender announcements appear weekly in the Trade Opportunities Bulletin and daily in the Trade Opportunities Notice Service, and Commerce Business Daily. Many trade periodicals cooperating with the Department also print such leads.

7. Develop a system to target and contact U.S. firms -- particularly small and minority firms -- that are likely to be competitive in foreign government procurements.

The United States Commercial Service and the Minority Business Development Agency are actively engaged in identifying small and minority enterprises interested and able to take advantage of foreign marketing opportunities including foreign government procurement opportunities. This effort, which is ongoing, is more focused on identifying and encouraging such firms to enter exporting generally, rather than to compete immediately for specific foreign government tendering opportunities. Small and minority enterprises represented overseas in countries issuing tender opportunities are being assisted by our overseas commercial staff. Also, an interagency agreement between ITA and the Minority Business Development Agency has been developed to increase the participation of minority business exporters, and MTN Government Procurement Code opportunities will be available to these firms.

The U.S. Commercial Service (USCS) district offices of ITA have, with the advice and support of International Economic Policy/ITA, sponsored a series of MTN seminars and conferences designed to alert American businesses to the opportunities associated with the MTN Government Procurement Code. These events are attended by predominantly small and medium-sized businesses, including minority businesses.

8. Institute a subscriber service for firms that are interested in receiving bidding information on a continuing basis for a particular product category or categories.

The principal means for an interested U.S. firm to receive notification of specific tender opportunities is through a subscription to the Trade Opportunities Notice Service. This service registers the specific product/country/and type of lead interest of subscribing firms on a computer. As a telegraphically reported lead arrives, it is matched against the registered subscribers' interest and a computer printed mail message is issued within three days of our receipt.

Other services, including publication in Commerce Business Daily and the Trade Opportunities Bulletin (weekly), identify specific leads but do not "target" them to specific interests of subscribing firms.

9. Establish liaison with state and local governments with a view to using their services, where such services exist, to disseminate general information on the Agreement and information on specific tendering opportunities.

Currently, four states (New York, Georgia, Florida and Iowa) purchase electronic data tapes from the Trade Opportunities Program, as reported from Foreign Commercial Service Posts abroad. A fifth state (Mississippi) is considering purchasing the tapes. Each of these states makes use of the data tapes on its own computer facilities and makes a secondary distribution of trade opportunities to businesses within the states. There is a close relationship between the USCS district offices of ITA and each of the fifty states' Department of Commerce and Economic Development. Information on the MTN and the Government Procurement Code is shared directly through training and through periodic exchange of information, including newsletters, Commerce Business Daily and overseas business reports that contain MTN GPC information.

10. Provide advice and assistance in dealing with foreign governments.

ITA has published an Overseas Business Report specifically designed to advise interested U.S. firms on foreign government procurement procedures, practices, and standards.

Also, many different ITA offices provide advice and assistance in dealing with foreign governments. Foreign Commercial Service officers are well placed to intercede directly with foreign government purchasing agencies and officials on benalf of U.S. Firms. The country specialists of International Economic Policy/ITA are available to answer questions concerning the laws and customs of the signatory countries. In addition, U.S. Commercial Service trade specialists provide one-on-one counseling on any export related matter, including pre-qualification to bid, finding translation services, and locating competent representation.

11. Provide technical assistance to small and minority firms to help them meet tender requirements.

Small and minority firms interested in bidding on foreign government opportunities are provided counseling and other relevant assistance to their competitive efforts. As a practical matter, however, there are few such firms seeking such assistance, and even fewer are organized in a manner which would enable them to compete effectively abroad for such awards. The Department provides a range of services to assist interested firms in establishing themselves abroad in a manner which will enable them to begin competition. The creation of Export Trading Companies should ameliorate some of the risks and costs involved in marketing products overseas and greatly improve export capabilities of small and medium-sized companies.

12. Provided expedited consideration of export licenses.

Few of the MTN identified foreign government tender announcements are in product fields or in countries requiring validated export licenses. When such opportunities occur, the U.S. Commercial Service can provide firms with appropriate priority assistance in requesting and processing export license applications.

13. Develop a catalogue of prospective overseas agents and distributors that are particularly well qualified to represent U.S. companies wanting to pursue procurement opportunities.

Commerce has requested Commercial Officers in the eighteen signatory countries to report, as part of their gathering of trade opportunity leads, the names and present interests of foreign firms especially well qualified to assist U.S. firms in bidding on government procurement opportunities. The dissemination of the trade opportunity leads offers subscribing firms the identification of interested potential representatives.

Other services of the Department, including the Agent Distributor Service, Trade Lists, and Export Mailing List Service are employed by a number of firms to identify and begin communication with potential overseas representatives both for foreign government procurement opportunities as well as for more general representation.

14. Rapid reporting on bid opportunities, including appropriate assistance in the translation of necessary documents.

Foreign Commercial Service staffs in the signatory countries generally report bidding opportunities by telegraph within one or two days of their announcement in the foreign government journal. Two high volume posts (Brussels and Tokyo) have contractor support to ensure rapid reporting.

Foreign Commercial Service staffs can suggest qualified private translators but usually do not have the time to translate tender

documents themselves. Certain foreign government agencies (particularly Japan's Nippon Telegraph and Telephone Public Corporation) provide English language translations of some pre-qualification and bid documents. U.S. Commercial Service trade specialists can also suggest qualified private translators but generally do not have the expertise to precisely translate highly technical tender documents.

15. Assistance to U.S. firms wishing to enter bids and aggresive action by commercial officers of foreign posts in support of suppliers of U.S. products throughout the procurement process.

Foreign Commercial Service officers are working with U.S. suppliers and their agents to insure that U.S. firms already in the market are competing on these bids. In a number of major countries, the FCS has worked with the American Chambers to disseminate information widely throughout the country. In those instances where one U.S. supplier is the only bidder actively competing, the FCS posts will make strong representations to the Ministry involved.

16. Collect and transmit data made available on government purchasing as required by the Agreement.

Aggregate procurement data is being collected for the Office of the U.S. Trade Representative by the federal procurement data center and will be transmitted to the GATT Secretariat.

17. Ongoing reporting on the structure of Agreement signatories' purchasing mechanisms.

All overseas posts in signatory countries are providing this information on a regular basis as part of their reporting requirements under the Government Procurement Code.

To ensure that ongoing reporting on information on foreign government purchasing mechanisms is available, we have issued detailed reporting requirements to all overseas posts in signatory countries. Posts report on the legislation, regulations, and administrative procedures regarding implementation, as well as the actual purchasing mechanisms and practices of foreign government agencies. In addition, signatories have provided the GATT Government Procurement Code Committee with information on their implementation and administration of the Agreement. These documents are available from the Trade Advisory Center.

18. Report on the types and value of services purchased by Agreement signatories.

The reporting requirements referred to in item 17 include a requirement to provide information on foreign government procurement of services.

19. Monitor and report on the success, or failure, of individual U.S. firms seeking to compete in the government procurement market to pinpoint areas where U.S. exporters need government advice or assistance to improve their success.

While it is not feasible to monitor each foreign tender announcement, Department of Commerce FCS posts are working closely with American Chambers and individual trade associations, as well as bidding companies, to monitor U.S. overall performance in this critical field. Companies who believe they have not been given fair treatment are encouraged to turn to the FCS or Economic Officers for assistance. Information of this type is quickly transmitted to Washington, and after investigation of the allegation, appropriate representations are made to the host country. In addition to the work of the Foreign Commercial Service, the U.S. Commercial Service District Offices report any problems that firms are experiencing relating to the MTN codes and assist firms with the resolution of their problems through the Trade Advisory Center of International Economic Policy/ITA, either directly or through referral to an appropriate contact.

20. Investigate allegations of non-compliance.

We have aggressively pursued all indications of non-compliance and will continue to do so. As a result of this aggressive approach, we have resolved a number of start-up problems and are continuing to pursue a number of other problems which were described in our testimony.

21. Report on prospective overseas agents and distributors as necessary to prepare the catalogue discussed under domestic measures.

In support of the Foreign Government Procurement Code implementation project, overseas Commercial Officers have been given instructions to seek out and promote interest among foreign representation firms in adding new U.S. product lines. This reporting is continuous, in the form of immediate Trade Opportunities and Foreign Trader Index listings. Foreign Trader Index listings are employed in response to U.S. firm requests to develop tailored "prospect" lists to assist those firms in identifying and communicating with prospective representatives.

22. Report on individuals available for panels.

The Committee on Government Procurement has been advised of individuals that are available to serve on panels.

23. Continue efforts to expand Agreement membership or establish bilateral arrangements where advantageous.

We are consulting with a number of countries that have expressed an interest in signing the agreement and are continuing to take every opportunity to urge other countries to sign.

24. Provide technical assistance to LDC's if appropriate.

Only two signatories to the agreement are LDC's and neither has requested technical assistance. As other developing countries adopt the Agreement, we will be prepared, within available resources, to provide technical assistance if appropriate.

25. Assure that individual departments and agencies fully comply with Agreement requirements.

The Office of the U.S. Trade Representative has worked closely with the General Services Administration, Department of Defense, and NASA to bring all federal procurement regulations and practices, applied to covered purchases, in line with the Agreement.

26. Establish a central point for inquiries from foreign signatories on U.S. procurement practices.

The Office of the U.S. Trade Representative serves as the central inquiry point.

27. Collect aggregate procurement data as required by the Agreement.

As noted in item 16, aggregate procurement data is being collected for the Office of the U.S. Trade Representative by the federal procurement data center.

28. Consider and act on complaints of non-compliance by other signatories.

There have been few complaints about our implementation of the Agreement. Those few that have been received have been reviewed and acted upon where appropriate.

29. Collect and analyze data supplied by signatories as required by the Agreement to be used in the detection of any systematic non-compliance and to create a data base on foreign procurement practices.

The data for the first year of the Agreement's implementation will be exchanged this fall. At that time we will closely examine the data for any signs of non-compliance.

30. The maintenance of an effective interagency process to review complaints of non-compliance made by U.S. firms and to prepare and review dispute settlement cases as necessary.

The TPSC Subcommittee on Government Procurement has been very active and effective in dealing with foreign compliance problems. As noted above, a number of implementation problems have already been resolved and the rest are being actively pursued.

31. Ongoing analysis of data, supplied as required by the Agreement, to assess the balance of concessions and to pinpoint non-covered foreign entities of particular interest to U.S. exporters.

As noted above, the first data will be exchanged in the fall. At that time the data will be examined to assess the balance of concessions and to help in deciding objectives for the renegotiation.

32. A study of the effects on U.S. industry of the failure of our trading partners to provide coverage of the basic product sectors.

Pursuant to section 302(C) of the Trade Agreements Act, this study has been completed and forwarded to Congress.

33. An assessment of the types and value of services purchased by governments as well as the feasibility of extending the Agreement to such purchases.

In preparation for renegotiation of the Agreement, which will begin next year, we have begun to assess how services might fit under the Agreement.

34. A review of the structure and relationships of procurement entities in the countries that have signed the Agreement including a delineation of executive entities, quasi-central government entities and entities having management control relationship with their central government.

We are collecting information from our diplomatic posts on this subject and analysing it as it is received.

35. Three year negotiation on expanded coverage.

The three-year "renegotiation" will begin next year. Preliminary discussions have already been initiated.

36. Meetings of Committee on Government Procurement.

The Committee on Government Procurement has met five times since the Agreement entered into force.

Senator DANFORTH. Ambassador Brock and Secretary Olmer, thank you very much for being with us. Why don't the two of you proceed in order, and we will question you together.

STATEMENT BY AMBASSADOR WILLIAM E. BROCK, U.S. TRADE REPRESENTATIVE

Ambassador BROCK. I guess I should start by saying I was a little worried that we might end up with three Senators from Missouri for a while there, but it turned out we ended up with a very strong Senator from Pennsylvania, after all. [Laughter.]

Senator HEINZ. I think the only place you end up with—with people from Kansas and Missouri is on the football field, the Big Ten, or something.

Senator DOLE. The Big Eight. I didn't realize we were losing numbers fast.

Ambassador BROCK. I didn't realize they played football up your way, but I'm glad to hear it. [Laughter.]

All right, let's get back to serious business here.

On the Procurement Code—I will try to summarize my statement, too, Mr. Chairman—I think fundamentally what I will say is that the jury is still out.

Technically, we believe that foreign implementation has been pretty good. The problem is that the proof is always in the pudding, and I don't think we are in a position to judge their performance in this area yet.

Let me look first at the Government Procurement Code, and then I would like to make a couple of comments on the NTT.

The Procurement Code has been in effect for almost 18 months now, since January 1, 1981. With its entry into force, $25 billion in new market opportunities have been opened for U.S. firms, and those markets were effectively barred for us until that time.

We did attempt, then, because of the size and the importance of this market, to insure that the signatories lived up to their obligations. We initiated those efforts even before the code went into effect, and I think we did so fairly effectively and eliminated some startup problems as a consequence.

After the code was entered into in January of last year, we have watched with particular care the bidding opportunities published pursuant to the requirements of the code. In 1981 we had 1,400 code-covered bidding opportunities which were published by our fellow code signatories, and over 700 opportunities have been published this year. And I think it is fair to state that these 2,100 bids provided opportunties for bids that would have been closed to us prior to the entry into force of the code

The key question is how many of these 2,000 opportunities have U.S. firms bid on and won? And we honestly don't have the answer to that question or to the related question of how many foreign sales there have been to the U.S. Government as a result of the code. We will be in a better position soon. We are collecting data on the code-covered purchases during 1981, including data on the level of sales from each code signatory. This data will be exchanged by all signatories this fall and will give us an idea of how much business we have done under the code so far.

We are also seeking input on the code's operation from the business community. We have received so far a number of unsolicited comments, and, significantly, I think, these have been positive rather than complaints about foreign implementation. A number of firms in the computer and business machines sector in particular have told us that as a result of the code they have found new or facilitated access to foreign government purchases.

In one case involving a British purchase of computer equipment we saw the code work to open a major purchase to U.S. firms in the face of apparent pressure from the domestic industry in that country to limit competition to local suppliers.

I do think we would be deceiving ourselves if we expected dramatic results from the code after a year and a half of operation. The fact is that it takes time for firms to analyze new market opportunities and to decide to invest the time and resources necessary to enter new markets. It would appear we are in that market research phase now. We have been told by our Swedish and Japanese counterparts, for example, that during 1981 they received a considerable number of tentative inquiries from U.S. firms that have yet to bid on any actual opportunities.

A particular problem we have faced in encouraging U.S. firms to take advantage of the opportunity is that, based on past experience, many firms have written foreign procurement markets off as closed. Because of this problem we are putting a great deal of effort into making U.S. firms aware of the code and its opportunities.

The first year and a half has been a critical period, and we view it as such to insure that the code is operating smoothly and fairly. On balance, I think we have found that foreign implementation of the code is, in legal terms, satisfactory. There have been some problems. For instance, we disagree with other code signatories in their belief that leasing transactions are not covered by the code. We are working on this issue.

We have also found a number of startup problems such as the number of foreign bid announcements which did not allow sufficient time for U.S firms to respond. I think those areas have been resolved satisfactorily.

We found in 1981 that Italian procurement officials, in violation of Italian law, were not fully implementing the code. We have sent a team to Rome and to Geneva to insist on this correction, and I think we have some prospect of the problem now behind us.

We have also been concerned with the EC's method of determining whether purchases fall below the code's threshold for coverage, as we believe that it improperly reduces the number of European Community purchases which are covered by the code. This matter is currently being pressed with the EC and in the Code Committee.

But despite the problems, I think for the most part our fellow code signatories have met their obligations, and we are beginning now to look forward to future activity. As you know, we would like to see the code broadened. The benefits and obligations that we have received to date are, I think, fairly balanced in terms of the original entry.

I feel personally disappointed with the extent of coverage and the limitations of that coverage. In particular we would like to see the coverage broadened to foreign government entities that are

major purchasers of telecommunications, power generation, and transportation equipment, and we would like to broaden the code to cover service contracts.

The code provides for its own expansion and improvement. Article IX of the code directs that negotiations be directed at both of these goals and that those negotiations begin prior to January 1, 1984. We have already started some informal conversations in preparation for that renegotiation, and we will obviously be in consultation with you through that process.

Now very quickly on the NTT, it has two components, as you know. It opens the procurement to U.S. firms in particular for high technology purchases. This is significant because Japan is the only foreign country that has agreed to open its telecommunications entity to foreign sales under the Procurement Code.

Second, it provides for improved access to Japan's interconnect market which is regulated by NTT. Together, these components have potentially opened Japan's entire domestic telecommunications market. The problem is that the jury is still out, as I said earlier. NTT has met the technical requirements and has exceeded those requirements in many cases. It has revised its government procedures, published its procurement procedures in English, published and translated voluminous technical requirements into English, although those translations were not even required by the agreement.

During 1981 NTT hosted seminars in Washington and New York on Japan's interconnect market and hosted a U.S. selling mission in Tokyo. Their officials have spent a lot of time with U.S. telecommunications executives in discussing their purchasing needs and their procedures; so they have done a great deal in the legal sense.

We have gotten in the interconnect portion, for example, five U.S. firms that have succeeded in obtaining type approval to sell a number of products so that they can market directly now without going through the normal redtape. That is important.

In terms of direct sales, results are limited—$3.5 million in equipment, primarily off-the-shelf items. The unimpressive performance, in my judgment, was due at least in part, however, to the fact that U.S. firms did not bid on a large number of NTT purchases. Although another key factor was that few of the bidding opportunities involved the sophisticated communications equipment which we are most interested in selling to NTT.

We have expressed our concern; they have said they share the concern and want to work with us to rectify the situation. As a result of these discussions they dispatched a high-level team led by Senior Managing Director Maeda earlier this year to meet with our firms and discuss sales opportunities.

We really don't know yet whether NTT's new efforts to increase sales will succeed, but the level of activity does seem to be accelerating. For example, 43 suppliers have now been approved as qualified to sell NTT various products under procedures that are generally used to buy less sophisticated equipment. But they are also used to buy PBX's which can be highly sophisticated. GTE and ITT have been approved to bid on NTT's $12 million in annual purchases of digital PBX's, for example. We have got three U.S. firms presently qualifying to sell high-speed modems to NTT.

I guess what we are watching most closely is their purchase of sophisticated telecommunications equipment. Earlier this year we were pleased to see Motorola gain an award on pagers and that they have been accepted over a number of Japanese firms to submit a prototype of a mobile telephone.

More importantly, U.S. firms in increasing numbers are initiating discussions with NTT aimed at selling our most sophisticated telecommunications equipment, including central switching equipment, and the results of these approaches will, I believe, be the true measure of this agreement.

In the final analysis, as I said earlier, the proof of the pudding is in the eating. We are in the critical period of the agreement. It expires in 1983 unless we extend it, and we obviously won't agree to an extension unless we believe it has worked. And we won't know that, I guess, for some time; but the next 12 months will be particularly critical, because by next spring we will have to begin making our final evaluation of the agreement regarding extension. I don't know whether I can predict the outcome. I do think that they are trying.

It is my hope that a year from now we will be able to report significant commercial results. We cannot do that at this time.

It is essential for our relationship with Japan that this agreement be successful. I think they know that. We certainly do, and we are monitoring it very, very carefully.

Thank you, Mr. Chairman.

Senator DANFORTH. Thank you, Mr. Ambassador.

[The prepared statement of Ambassador William E. Brock, III follows:]

98-072 O - 82 - 6

Statement of Ambassador William E. Brock, III
United States Trade Representative

Before the Senate Finance Committee
Subcommittee on Trade

June 9, 1982

I am pleased to appear before this Subcommittee today to report on the operation of the MTN Government Procurement Code and the U.S./Japan NTT Agreement. Given the commercial importance of these agreements I think it only proper that Congress and the Administration take a particular interest in seeing that they are fully and successfully implemented.

Let me start with a general observation. I believe that the jury is still out on both agreements. For reasons which I will explain, we are not yet in a position to definitively state that the agreements have been successful or unsuccessful. In the case of both agreements, I can report that from a strict technical standpoint we have been generally satisfied with foreign implementation. However, the acid test for the agreements will be their commercial results and we are not in a position to judge their performance in this area at this point in time.

I would like to begin this morning with a discussion of the operation of the Government Procurement Code and then go on to give a status report on the NTT Agreement.

The Government Procurement Code

As you know, the Government Procurement Code entered into force on January 1, 1981 and has now been in force for almost a year and a half. With the entry into force of the Code over $25 billion in new market opportunities have been opened to U.S. firms. It should be remembered that prior to the Code U.S. firms were effectively barred from winning foreign government contracts when indigenous firms were capable of producing the required product. Given the commercial significance of the Code, we have felt a special responsibility to ensure that our fellow Code signatories live up to their obligations.

Our efforts at ensuring faithful implementation were initiated well before the Code entered into force. We started with close monitoring of necessary revisions in national laws and practice. Through this process we were able to avoid a number of start-up problems -- though some start-up problems remained as I will describe later. We also established detailed reporting requirements for U.S. embassies and missions located in Code signatories. These reporting requirements were designed to guard against Code

infractions and provide a channel for rapid transmittal of bidding opportunities to Washington for dissemination to U.S. businesses.

With the entry into force of the Code, we increased our efforts at monitoring foreign implementation. One of the factors we have watched with particular care has been the number of bidding opportunities published pursuant to Code requirements. During the course of 1981, over 1,400 Code covered bidding opportunities were published by our fellow Code signatories and over 700 opportunities have already been published this year. I feel safe in saying that these 2,100 bids provided opportunities that would have been closed to U.S. firms prior to the entry into force of the Code.

Of course the key question is how many of these 2,000 opportunities have U.S. firms bid on and won. We do not know the answer to this question or the related question of how many foreign sales there have been to the U.S. government as a result of the Code. However, we will soon be in a better position to gauge the results of the Code.

At the present time, we and our fellow signatories are collecting data on Code covered purchases during 1981, including data on the level of sales from each Code signatory. This data will be exchanged by all signatories

this Fall and will give us an idea of how much business we have done under the Code thus far.

We are also seeking input on the Code's operation from the business community. We have already received a number of unsolicited comments from the business community regarding the Code. Significantly, these have been positive comments about Code opportunities rather than complaints about foreign implementation. A number of firms, in the computer and business machine sector in particular, have told us that as a result of the Code, they have found new or facilitated access to foreign government purchases. In one case, involving a British purchase of computer equipment, we saw the Code work to open a major purchase to U.S. firms in the face of apparent pressure from the domestic industry to limit competition to local suppliers.

I believe that we would be deceiving ourselves if we expected dramatic results from the Code after a year and a half of operation. The fact is that it takes time for firms to analyze new marketing opportunities such as those provided by the Code and to decide whether to invest the time and resources necessary to enter new markets.

It would appear that we are now in such a market research phase. We have been told by our Swedish and Japanese counterparts, for instance, that during 1981 they received a

considerable number of tentative inquiries from U.S. firms that have yet to bid on any actual opportunities.

A particular problem we have faced in encouraging U.S. firms to take advantage of Code opportunities is that based on past experience many firms have written foreign procurement markets off as closed. Because of this problem, we are putting a great deal of effort into making U.S. firms aware of the Code.

We have viewed this first year and a half of implementation as a critical period for ensuring that the Code is operating smoothly for U.S. firms that decide to bid. On balance, I would say that we have found foreign implementation of the Code to be satisfactory. This is not to say, however, that there have not been problems.

There have been a number of problems, or issues, that we have had to deal with. For instance, we disagree with other Code signatories in their belief that leasing transactions are not covered by the Code and we are working on this issue. We have also found a number of start-up problems such as a number of foreign bid announcements which did not allow sufficient time for firms to respond. I am pleased that through our efforts these start-up problems have been resolved.

In addition, we found during 1981 that Italian procurement officials, in violation of Italian law, were not fully implementing the Code. As soon as we became aware of this problem we dispatched a team of procurement Code experts to Rome and the Code Committee in Geneva to insist that this problem be corrected immediately. As a result of our efforts, we believe that this problem is now behind us although we are continuing to monitor Italian implementation closely.

We have also been concerned with the EC's method of determining whether purchases fall below the Code's threshold for coverage as we believe that it improperly reduces the number of EC purchases which are covered by the Code. We are currently pressing this matter both bilaterally and in the Code Committee.

Nevertheless, despite the problems which I have described it appears that for the most part our fellow Code signatories have met their obligations.

Now that Code implementation appears to be well in hand we are beginning to look towards future activity under the Code. As you are well aware, we would like to see the scope of the Code broadened in a number of areas. While we believe that our benefits and obligations under the Code are balanced we have been disappointed with limitations in its coverage. In

particular, we would like to see the Code's coverage extended to foreign government entities that are major purchasers of telecommunications, power generating, and transportation equipment. We would also like to begin to examine the possibility of expanding the Code to cover service contracts.

The Code explicitly provides an avenue for its expansion and improvement. Article IX of the Code directs that negotiations directed at both of these goals be initiated prior to January 1, 1984.

We have already initiated informal discussions with our fellow Code signatories in preparation for the "renegotiation" and we will be seeking agreement to begin the negotiating process as soon as possible. We will, of course, be keeping in close consultation with you as work in this area progresses.

Now, I would like to turn to the NTT Agreement.

The NTT Agreement

The U.S./Japan Agreement regarding Japan's Nippon Telegraph and Telephone Company has two major components. First, it provides for the opening of NTT procurement to U.S. firms, including, in particular, its high technology purchases. This is particularly significant because Japan is the only

foreign country that has agreed to open its telecommunications entity to foreign sales under the procedures of the Government Procurement Code. Second, it provides for improved access to Japan's interconnect market which is regulated by NTT. Together, these components have opened Japan's entire domestic telecommunications market.

As I said earlier, the jury is still out on this Agreement because we have yet to see major sales of U.S. high technology equipment to NTT. However, NTT's performance in meeting the Agreement's technical requirements has been encouraging, and in some cases has exceeded the requirements. Over the past year and a half, NTT has met and in some areas exceeded these technical requirements. It has revised its procurement procedures, published its procurement procedures in English, and published and translated voluminous technical requirements into English, although the translations were not required by the Agreement.

Also, during 1981 NTT hosted seminars in Washington and New York on Japan's interconnect market and hosted a U.S. selling mission in Tokyo. In a similar vein, NTT officials have spent considerable time meeting with visiting U.S. telecommunications executives in Tokyo to discuss NTT's purchasing needs and explain the new procurement procedures.

On the commercial side we have seen some encouraging activity, though not enough to make final conclusions about the Agreement.

Under the interconnect portion of the Agreement, for example, five U.S. firms have succeeded in obtaining type approval to sell a number of products. Type approval will make it possible to market these products directly to Japanese consumers who will be allowed to hook them into the NTT phone network without further red tape. The products which have gained type approval thus far are light-weight headsets, telephone handsets, modems, and private branch exchanges (known as PBX's) -- which are essentially small scale central switching devices.

Rolm Corporation, which is the firm that received type approval for its PBX's, recently wrote to us to express its satisfaction with NTT's treatment of its application. To paraphrase Rolm's comments, they found NTT to be helpful beyond what was required of them by the Agreement and they felt NTT's requirements were tough but fair and in line with what they expected from a sophisticated telephone company.

In regard to direct sales to NTT, results have been limited thus far. During 1981 U.S. firms sold a relatively modest $3.5 million in equipment to NTT -- primarily off the shelf items. This unimpressive performance was due at least in

part, however, to the fact that U.S. firms did not bid on a large number of NTT purchases. Although another key factor was that few of the bidding opportunities involved the sophisticated telecommunications equipment which U.S. firms are most interested in selling to NTT.

We have expressed our concerns to NTT regarding our modest level of sales. Their response has been that they share our concerns and want to work with us to rectify the situation. In part as a result of our discussions, NTT dispatched a high level team led by Senior Managing Director Maeda earlier this year to meet with U.S. firms and discuss possible sales opportunities.

It is too soon to tell whether NTT's new efforts to increase sales will succeed although the level of activity seems to be accelerating. For example, 43 suppliers have been approved as qualified to sell NTT various products under procedures that are generally used to buy less sophisticated equipment. However, these procedures are also used to buy PBX's which can be highly sophisticated. In fact, it has just been announced that GTE and ITT have been approved to bid on NTT's $12.5 million in annual purchases of digital PBX's. Also, three U.S. firms are currently in the process of qualifying to sell high speed modems to NTT and we are optomistic that our firms will do well in competing for this $21 million market opportunity.

Of course, what we are watching most closely is NTT's purchases of sophisticated telecommunications equipment. Earlier this year we were pleased to see Motorola succeed in gaining an award to deliver 45,000 pagers, valued at $8 million, this year. Similarly, we were pleased to see that Motorola has recently been accepted over a number of Japanese firms to submit a prototype of its mobile telephone. Approval of this prototype by NTT will give Motorola access to NTT's purchases of mobile telephone equipment.

More importantly, U.S. firms, in increasing numbers are initiating discussions with NTT aimed at selling our most sophisticated telecommunications equipment, including central switching equipment. The results of these approaches will, I believe, be the true measure of this Agreement.

Over the last year and a half I have met with NTT's President, Dr. Shinto, as well as NTT's Chief Engineer, Haruo Yamagouchi, who played a key role in the successful negotiation of the NTT Agreement. I have been impressed with the sincerety of their commitment to make the Agreement a success and believe that I can work with them to the mutual advantage of the United States and Japan.

Nevertheless, the proof of the pudding is in the eating and we are entering into a critical period for the Agreement. The Agreement will expire at the end of 1983 unless we agree

to extend it for an additional three years. Of course, we will not agree to extend the Agreement unless we believe it has worked as intended. The next twelve months will be particularly critical because by next spring we will have to begin making our final evaluation of the Agreement in preparation for discussions with NTT and the Japanese Government in the Fall regarding extension of the Agreement.

I will not try to predict the outcome of our evaluation as at this point only time and sales by U.S. firms will tell. It is my hope, however, that a year from now we will be able to report significant commercial results from the Agreement. It is clearly essential to our trade relations with Japan that this Agreement be successful.

Senator DANFORTH. Mr. Olmer?

STATEMENT OF HON. LIONEL H. OLMER, UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL TRADE

Mr. OLMER. Thank you, Mr. Chairman. I have a rather lengthy written statement that I would like to submit for the record and very briefly summarize it.

As has been pointed out by yourself and your colleagues and Ambassador Brock, the Procurement Code and the NTT Agreement were not intended to provide guaranteed sales for U.S. companies, but they were designed to open new opportunities in markets which had previously been closed and in a sense offer reciprocal access both in the sectoral basis and in the aggregate basis.

I think that I would have to share Ambassador Brock's judgment that the hoped-for results remain to be experienced. As measured by sales actually registered, U.S. firms have yet to reap major benefits from the code or from the NTT Agreement. But more time is needed before we make a conclusive judgment as to whether the high expectations that were widely touted at the time were realistic or Pollyannish.

I would like to describe what we in the Department of Commerce do to attempt to assist U.S. exporters.

Business must receive information from overseas on a timely and usable basis. Accordingly, in order to put U.S. firms in touch with new foreign procurement opportunities, these opportunities are actively sought out by our Embassies overseas and the foreign commercial officers there, cabled to Washington electrically, and disseminated to U.S firms through a computer-based trade opportunities program.

Additionally, key information is published in the Commerce Business Daily, which has many thousands of subscribers.

Commerce officers around the country in our 47 district offices and overseas spend a good amount of time contacting interested firms directly to advise them of bidding opportunities. And I would say that our foreign commercial officers overseas rate this as one of their highest priorities, to counsel U.S. businessmen on trade problems and to arrange meetings with them and foreign contacts.

In the United States, we have begun an extensive publicity campaign, including the training program for our district office staff, because the complexities of this Government Procurement Code in some aspects can be mind-boggling. We have put on a number of seminar programs for members of the business community, and we have conducted seminars on government procurement in London, Rome, Milan, Frankfort, Paris, and Rotterdam.

I also would have to agree with Ambassador Brock that our evidence is as yet impressionistic. We hope, by this fall, to have hard numbers available, but we do not now have them.

We do know that many firms are using and paying for the various commerce information sources to develop marketing information, and we think they are using that before they decide whether to pursue in a formal way foreign government contracts.

We face the fundamental problem, however, that only a small set of firms has developed the capability to mount a successful export business. And that's precisely why I would like to make a pitch again—we don't really need to in this audience—on why we strongly support the earliest possible enactment of the Export Trading Company legislation. The ETC's, we believe, can ameliorate many of the risks and costs involved in marketing products overseas and thereby greatly improve U.S. firms' export capabilities, especially those of small and medium size who have limited ability to invest in those fundamentals.

I would like to turn to a quick review of the NTT Agreement from my perspective. I share the conviction that all of you have that that is a most important element in our broader trade relationship with Japan.

During the year and a half we have experienced with the Agreement, there have been a number of very significant changes in NTT as an institution. There is a new president Dr. Hisashi Shinto. He was recruited from outside of government service. He has had training as an engineer, and I believe he has a commitment deeply felt and very sincerely based that the opening of NTT is first and foremost in the best interest of his country because it will make available to Japan new technologies, new products, and new ideas.

Dr. Shinto is the best kind of ally we could have. His interest in implementing the agreement is spurred by his perception that it serves Japan's interests as well.

NTT has been very forthcoming in establishing procurement procedures and in working with us to resolve startup problems. They have published considerable technical information in English, and last year they presented seminars in the United States on procedures and technical requirements for type approval.

Last June, I led a U.S. mission to Tokyo for a seminar which was hosted by Dr. Shinto, and it was very useful in providing knowl-

edge about NTT procurement policies. Incidentally, it provided a basis for a number of the U.S. businessmen who were present to make a decision not to pursue business opportunities because of the complexity and the high risks involved.

Despite NTT's basic show of good faith, the first 18 months has been disappointing to U.S. companies in the aggregate, and I believe to the U.S. Government as a whole. Quite frankly, we have seen only minimal sales to NTT. Only 11 American companies have won contracts, out of a total of 117 contracts for which NTT solicited bids, and the contracts to those 11 firms were worth approximately $3.5 million. They were for equipment at the low end of the technology spectrum.

The reasons for the lack of U.S. participation are not entirely clear to us. In some cases, U.S. manufacturers were probably not willing to bear the effort of meeting NTT's rigid standards. Such a decision, however, was probably taken with a large measure of skepticism as to NTT's bona fides, and I don't think it should be viewed as a reflection of U.S. lack of competitiveness.

In other cases, the quantities being purchased by NTT were too small to warrant the expense of modifying the product to meet NTT requirements. But a major part of the problem in my judgment is that NTT has yet to offer bidding opportunities on major high technology purchases, such as digital switching equipment for the telephone service and transmission equipment. Large U.S. companies who could and would be willing to spend the effort and time to compete for sales in those areas are not being given the chance to do so on what they term "big ticket items."

We have made some progress in addressing a number of specific concerns which American business has shared with me. Among them are:

The potential need to share new technology with NTT and to divulge patents and proprietary information. There is uncertainty as to the means by which NTT would safeguard that data;

Further, there has been a lack of adequate information regarding NTT's long-range planning process;

And, finally, the fact that NTT specifies to the smallest detail the engineering design characteristics rather than judging a product on the basis of its overall performance.

Now, I have said that we have made some progress in those areas. NTT has demonstrated a commitment to safeguard proprietary information, and the few U.S. firms that I have talked with who have expressed that concern I believe are close to being fully satisfied that that would be the case.

I have been told by NTT top management that long-term planning will be made available in the future. And, as regards design rather than performance standards, NTT has very recently announced a willingness to consider products acceptable to its system so long as they are of equal price, are in fact adaptable, and can be provided at competitive pricing.

Now, these are assurances of intent, and they will not guarantee sales; but I think they are representative of an apparent desire to open the system even if the pace remains, in my mind, disappointing.

I am personally, in addition, skeptical of significant movement away from NTT's insistence on design criteria; and, absent this, further progress for U.S. companies could well be years into the future.

The importance to American firms of successfully competing for NTT purchases goes well beyond NTT itself. Japanese manufacturers use NTT standards in supplying to NTT and to other customers in Japan and in third country markets. The difficulty of penetrating Japan's high technology markets is thus compounded without NTT's blessing.

To allow Japanese manufacturers a safe haven from which to compete with U.S. firms in third country markets is obviously inimical to U.S. interests and to the tenets of reciprocity in world trade. Indeed, the ability of Japanese manufacturers to compete effectively is demonstrated by their penetration of the U.S. telecommunications market.

In 1981, for example, purchases by ATT alone from Japanese suppliers exceeded $50 million.

I have to say that NTT itself is concerned about the low level of participation by American companies. This spring they sent a senior-level mission to the United States to promote procurement and easier entry. They met with several U.S. firms, and they visited the Commerce Department. I visited with the group at the end of their trip, and I reiterated our support for the ability of U.S. manufacturers to compete for big-ticket items.

While that mission was useful as a signal of NTT's effort to make the agreement work, again I agree with all of you, the principal measure must be actual purchases by NTT of American telecommunications equipment.

I have recently had some indications that NTT is conducting what are labeled "serious technical consultations" with at least two U.S. companies regarding the possibility of incorporating their digital central switching systems into the NTT telephone network. But mere technical consultations do not a sale make. They could result—and this is what I think all of us fear—in an unending drain on corporate time and money and no progress in making profits for the corporation.

There is another development on the horizon of very substantial significance: A Japanese Government administration's study commission has recommended after a 2-year effort that NTT be reorganized so as to divest government involvement. That is, NTT would become a private corporation, theoretically answerable to its shareholders rather than to the Japanese Diet and to the Ministry of Posts and Telecommunications.

One reason, interestingly enough, for the proposed reorganization is dissatisfaction with NTT's profitmaking performance; it is alleged to be overly centralized, heavily bureaucratic, and highly inefficient. I wouldn't want to make any predictions, but I believe that the stockholders and boards of directors in Japan probably behave in somewhat the same way as in the United States. If NTT were to be turned over to private ownership, I suspect that the elimination of many of these inefficiencies and the need to operate for profit would translate into greater opportunities for American firms.

The decision on whether to change will be made within a month, but the potential effects of which I speak will be years into the future.

In summary, U.S. business must be under no illusion about what these agreements will accomplish. Neither the Government Procurement Code nor the NTT Agreement can guarantee sales; nor, I might add, can the U.S. Government force the concluding of business contracts. American firms must recognize, and I think that they do recognize, that it will take a lot of time and a lot of resources on their part to make sales to foreign governments.

As we all know, it is not easy to do business with governments. The executive branch, and particularly the Commerce Department, will continue to assist in every way that it can.

Your committee's aggressive monitoring of this process, Mr. Chairman, has been very helpful, and I hope it will continue; but in the final analysis it is the private sector's responsibility to move aggressively and competitively to establish a position in overseas government procurement markets.

Thank you, sir.

[The prepared statement of Under Secretary Lionel Olmer follows:]

STATEMENT OF
LIONEL OLMER
UNDER SECRETARY FOR INTERNATIONAL TRADE
UNITED STATES DEPARTMENT OF COMMERCE
BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL TRADE OF THE
SENATE FINANCE COMMITTEE
JUNE 9, 1982

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear here today to review the operation of the Government Procurement Code and of our separate, bilateral agreement with the Government of Japan regarding procurement by the Nippon Telegraph and Telephone Public Corporation, or "NTT."

The Government Procurement Code was accepted by Congress in the Trade Agreements Act of 1979, and the NTT Agreement was concluded by an exchange of letters between the United States and Japan in December, 1980. Both agreements took effect January 1, 1981 and were viewed as important breakthroughs in opening government markets. In theory, they were to make available to American suppliers through competitive processes more than $25 billion in annual foreign government procurements. At the same time, it was estimated that the Procurement Code would open approximately $17.5 billion of the $100 billion U.S. government procurement market to foreign suppliers. Under the Code, foreign suppliers have access to purchases of goods by nearly all U.S. Government agencies with certain exceptions, such as the Departments of Transportation and Energy, the Tennessee Valley Authority and the Bureau of Reclamation.

While the Procurement Code and the NTT Agreement themselves were not intended to provide guaranteed sales for U.S. companies, they were designed to open new opportunities in markets previously closed. The agreements were expected to be a useful step in advancing the multilateral trading system by opening the government purchasing sector to international competition. Yet these results remain to be experienced. American companies have been slow to react, at least as measured by sales actually registered. However, more time is needed before we judge whether the high expectations which were widely touted at the time still may result. The Department of Commerce has put a high priority on implementation of these agreements. We are trying to assist U.S. industry by a variety of means to take advantage of the opportunities created by the agreements and are monitoring compliance by foreign governments with their provisions.

Operation of the Government Procurement Code

As I've said, it is too early to know how successful U.S. companies will be in selling to foreign governments. Considering the changes in procurement policy and the new requirements for more open, transparent procedures which are mandated by the Code, the outlook as measured by the first year's experience in my judgment is deserving of very guarded optimism. For example, prior to the Code, foreign government procurement intentions were largely secret; in 1981 we saw over 1,400 procurement announcements published by the Code signatories, and thus far in 1982 over 700 announcements have been published. We are pleased with this response.

There are problems, nonetheless. During the first year we encountered difficulties ranging from the slowness with which some governments implemented the Code to haphazard implementation efforts by others. As a result of our surveillance efforts, we became aware of problems with implementation by the European Community. These include the practice of excluding the value-added tax when estimating the value of potential contracts, which has the effect of reducing the number of EC purchases covered by the Code, since the minimum value must be $182,000; and a lack of compliance by Italy throughout 1981. We are also aware of problems with Japanese implementation, including qualification procedures and questionable use of recurring purchase procedures. During the first months of the Code, practically all signatories experienced some difficulty in meeting the 30-day bid deadline requirement. By the end of 1981 the majority of these problems had disappeared.

Whenever a Code problem arises with any signatory, we have instructed our embassies to raise the matter immediately with the host government. We have pursued all of the problems I just mentioned both bilaterally and multilaterally through the GATT Government Procurement Code Committee. In some cases we have used the formal consultations procedures of the Code to discuss these issues, and we are considering the possible initiation of the formal dispute mechanism of the Code.

Taking Advantage of Procurement Opportunities

Business must receive information from overseas on a timely and usable basis. Accordingly, we have designed and implemented an acquisition and dissemination system to put U.S. firms in touch with new foreign procurement opportunities in the quickest way possible:

-- Proposed foreign government purchases and qualification procedures are actively sought out by our embassies overseas, cabled to Washington by the Foreign Commercial Service, and disseminated to U.S. firms through our computer-based Trade Opportunity Program (TOP).

-- Key information is also published in the Commerce Business Daily; and we are working with trade associations to obtain even broader publicity.

-- We have identified and will provide to the business community on request lists of firms which will translate tender documents.

-- Commerce officers in Washington, in the District Offices around the country, and overseas are contacting interested firms directly to advise them of important bidding opportunities.

-- FCS officers in our embassies are counseling U.S. businessmen on trade problems and arranging meetings between them and appropriate foreign contacts.

We have begun an extensive publicity campaign to increase private sector awareness of opportunities generated by the Code. Early last year we published a booklet and a pamphlet on the Procurement Code and a brochure on foreign government procurement regulations. We are planning a media campaign to attract additional TOP subscribers, a training program to familiarize the trade specialists in our District Offices with the working of the Code, and a seminar program for the business community.

The Foreign Commercial Service, in conjunction with overseas American Chambers of Commerce, has sponsored seminars on government procurement in London, Rome, Milan, Frankfurt, Paris and Rotterdam. These have been excellent opportunities to inform subsidiaries and affiliates of American companies, as well as importers of American products, of the opportunities created by the Procurement Code. To improve our delivery time on procurement notices, FCS officers working with cooperating American Chamber organizations in Italy and Germany are selectively distributing procurement notices abroad to U.S. subsidiaries and representative firms.

Similarly, our District Offices in this country have scheduled "how to" seminars on the Procurement Code. Three seminars have been held to date. Seattle and Portland hosted seminars last fall, and Greensboro, N.C. held a session earlier this spring.

Impressions of Performance

We do not yet have available any statistics on how many contracts U.S. firms have won as a result of the Code nor how many foreign sales have been made to the U.S. Government. Currently, we are

compiling data on total U.S. procurement and Code-covered purchases. Similarly, other Code signatories are also preparing data in compliance with the Code's requirement that member countries keep statistics on their purchases. This information must be reported annually and will be available this fall when all signatories are expected to report to the GATT on the first year (1981) of Code operation. We do, however, have impressionistic evidence that U.S. firms are pursuing some of the opportunities created by the Code.

For example, contacts with foreign government officials from a wide range of countries, including the Nordics, member states of the European Community, Japan and Hong Kong, indicate that American firms seem to be pursuing actively a number of procurement opportunities. One interesting example is Japan where we have had two indicators of increased interest in Japanese procurement opportunities. Our Embassy in Tokyo has had numerous inquiries from interested potential suppliers. Moreover, some bid documents and general inquiries have been returned to our Embassy by various Japanese ministries because the documentation was improperly prepared or U.S. firms were unaware of the need to submit information in Japanese. Both indicators demonstrate an increased awareness of procurement opportunities in Japan.

Similarly, we know from conversations with American companies that they have begun to investigate the opportunities created by this Code. But I believe many firms are still in the market research phase. They are using the various Commerce information sources to develop marketing information before deciding whether to pursue formally foreign government contracts.

At the same time, we also have the impression that there are elements of the business community that are still not aware of these opportunities. We are working through the programs outlined above to address this problem. Nevertheless, we do face the more fundamental problem that there is only a relatively small set of firms which have developed the marketing techniques and capability to mount a successful export business. I would note that this is precisely why we strongly support the earliest possible enactment of the Export Trading Company (ETC) legislation still pending before the Congress. The creation of ETC's we think will ameliorate some of the risks and costs involved in marketing products overseas and thereby greatly improve U.S. firms' export capabilities, especially those of medium sized companies who have limited ability to invest in these fundamentals.

Renegotiations

While it is true that the present Procurement Code advances the possibilities of opening access to foreign markets, it is also true that some markets still remain closed. During the negotiation of the Code, the United States' objective was to include within the Code all government ministries and agencies. Despite this objective, important areas of foreign government purchasing in which

U.S. firms are highly competitive remain beyond the scope of the Code. With the notable exception of NTT (which is only partially covered by the Code, but is following Code procedures for all of its purchases), government agencies that are the principal purchasers of telecommunications equipment--and particularly those in Europe and Canada--are not subject to the Code's provisions. The same is true for heavy electrical and transportation equipment. Recently we have initiated efforts to expand the scope of the Code to cover these areas through negotiation. The Code itself calls for formal renegotiation to begin not later than December 31, 1983. We hope that the GATT Government Procurement Committee will initiate a technical work program this fall to prepare for these renegotiations and that the GATT Ministerial Meeting will ensure that they begin at an early date.

NTT Agreement

Now let me turn to a review of the NTT Agreement, the successful implementation of which is an important element in our trade relations with Japan.

Like the Code itself, the NTT Agreement has been in force for a year and a half. During that time, we have witnessed very significant changes in the leadership and management of NTT. The president, Dr. Hisashi Shinto, was recruited from outside the government. Though he has had training as an engineer, he was not part of the communications or computer industries. Most important, he has a commitment, which I believe is deeply felt, that the opening of NTT

is first and foremost in the best interests of his country because it will make available to Japan new technologies, products and ideas. Dr. Shinto is the best kind of ally we could have; his interest in implementing the Agreement is spurred by the perception that it serves Japan.

NTT has been forthcoming in establishing procurement procedures and working with us to resolve start-up problems. They have published considerable technical information in English, including a guidebook on selling to NTT. Last year NTT presented seminars in the United States on the Japanese interconnect market which provided guidance to American firms on NTT's procedures and technical requirements for type approval. Last June, I led a U.S. mission to Tokyo for a seminar hosted by NTT which was useful in providing about 75 representatives of American firms who were present with in-depth knowledge about NTT procurement policies.

Despite NTT's show of good faith with regard to technical implementation, the first year and a half of the Agreement has nonetheless been disappointing to U.S. companies and to the U.S. Government as a whole, I believe. Quite frankly, we have seen only a minimal amount of U.S. sales to NTT. To date, while 43 American companies have become qualified suppliers, only eleven American companies won contracts out of a total of 117 contracts for which NTT solicited bids. The contracts to these 11 American firms were worth approximately $3.4 million and were primarily for equipment at

the low technology end of the telecommunications/information systems spectrum. In addition, last year NTT purchased more from American companies on a basis which was outside the agreement, approximately $12.5 million, than under the agreement. This is accounted for by small quantity purchases of such products as measuring instruments and mini-computers for use in NTT laboratories.

The reasons for the lack of U.S. participation are not entirely clear. In some cases, U.S. manufacturers were probably not willing to bear the effort of meeting NTT's rigid standards. Such a decision probably was taken with a large measure of skepticism as to NTT's bona fides and should not be viewed as a reflection of basic U.S. competitiveness. In other cases, the quantities being purchased were apparently too small to warrant the expense of modifying the product to meet NTT requirements. But a major part of the problem is that NTT has yet to offer bidding opportunities on major high technology purchases such as central switching and transmission equipment. The large U.S. companies who might well be willing to spend the effort and time to compete for sales opportunities in this highly sophisticated, complex area are not being given the chance to do so in what they term "big ticket" sales.

Moreover, American businessmen have shared with me a number of more specific concerns about NTT's procurement practices. They include:

-- the potential need to share new technology, and to divulge patents and proprietary information,

-- the lack of adequate information regarding NTT's long range planning, and

-- the fact that NTT will specify to the smallest detail the engineering design characteristics of a product, rather than judging a product on the basis of its overall performance.

We have made some progress in eliminating these concerns: NTT has demonstrated its commitment to safeguard proprietary information; I have been told by NTT top management that long term planning will be made available in the future; and, as regards "design" rather than "performance" standards, NTT has just announced a willingness to consider products acceptable to its system even if different so long as they are of equal quality, are in fact adaptable, and can be provided at competitive pricing. These "assurances of intent" of course won't guarantee sales either; but they are representative of a desire to open the NTT system even if the pace remains, in our minds, somewhat disappointing. I am personally skeptical of significant movement away from NTT's insistence on design criteria for systems and components, and, absent this, further progress for U.S. companies could be years into the future.

The importance to American firms of successfully competing for NTT purchases goes beyond NTT itself. NTT sets standards for products as well as for components; Japanese manufacturers use these standards in supplying NTT and other customers in Japan and abroad. To allow Japanese manufacturers a safe haven from which to compete against U.S. firms in third country markets is inimical to the interests of American manufacturers and to the tenets of reciprocity in world trade. Indeed, the ability of Japanese manufacturers to compete effectively is demonstrated by their penetration of the United States telecommunications market. It is interesting to note that in 1981, purchases by AT&T alone, from Japanese suppliers, exceeded $50 million.

It is important to note NTT is also concerned about the low level of participation by American companies. This spring, NTT sent a senior level mission to the United States to promote NTT procurement and easier entry of U.S.firms to the NTT market. I met with the NTT group at the end of their trip and used that opportunity to reiterate our support for U.S. telecommunications manufacturers which we believe are clearly capable of making competitive sales to NTT. While the mission was useful as a signal of NTT's continuing desire to make the agreement work, the principal measure of NTT's performance must be its actual purchases of American telecommunications equipment.

I have been moderately encouraged by some recent developments. Last month, NTT announced that Motorola has become the first American firm to be granted documentary selection as a supplier of mobile

telephones. While this does not represent an actual sale, it does mean that, pending prototype approval, Motorola is qualified to sell such equipment to NTT in the future if the price is right.

Furthermore, we have indications that NTT is holding serious technical consultations with two American companies regarding the possibility of incorporating their digital central switching systems into the NTT network. If this were to result in successful applications by the American companies, it would be a major accomplishment and could well signal an opening of the Japanese telecommunications market. But mere "technical consultations" do not a sale make; they could result in an unending drain on corporate time and money and no progress in making profits for the corporation.

We have also had some positive results in the interconnect market. Type approvals have been granted to four American firms including Plantronix, for light weight headsets; ITT for telephone handsets; Rolm, for computerized PBX equipment; and Paradyne for high speed modems. I hope this sets a pattern for the future with regard to NTT. Obviously, both we and American companies will have to continue to exert the maximum effort in order to ensure that this agreement is successfully implemented.

There is another development on the horizon of potential significance. After a two year study, a Japanese government administration study commission has recommended that NTT be reorganized so as to divest government involvement. That is, NTT would become a private corporation answerable to its shareholders for its annual budget and plans, rather than to the Diet and the Ministry of Posts and Telecommunications. One major reason for the proposed reorganization is dissatisfaction with NTT's profit-making performance; it is alleged to have been overly centralized with bureaucracy and highly inefficient in its operations. Now I wouldn't want to make any predictions, but I believe that stockholders and boards of directors in Japan probably behave in the same way as in the U.S. If NTT were to be turned over to private ownership, I suspect that the elimination of these inefficiencies and the need to operate for profit would translate themselves into greater sales opportunities for American firms.

Summary

U.S. business must be under no illusion about what these agreements will accomplish. Neither the Government Procurement Code nor the NTT agreement can guarantee sales. American firms must recognize that it will take a large amount of time and resources on their part to make sales to foreign governments. As this Committee well knows, it is not easy to do business with a foreign government. The Executive Branch--and particularly the Department of Commerce--will continue to assist in every way it can. Yet in the final analysis, it is industry's responsibility to move aggressively and competitively to establish a position in overseas government procurement markets.

Thank you.

Senator DANFORTH. In 1979, at the time of our consideration of the Trade Act, we were told by FTR in writing that the estimated annual foreign government procurement sales that would be opened up to the United States would be $25 billion. I understand that you don't have the numbers now, that you have not done an accurate count of what has been opened or not. Would you make the same estimate today that was made in 1979?

Ambassador BROCK. Yes, I would.

Senator DANFORTH. Do you agree with that, Mr. Olmer?

Mr. OLMER. Well, accounting for inflation, it would probably have to move up somewhat; but in 1979 dollars, yes.

Senator DANFORTH. Do you believe that the same optimistic outcome as a result of the Government Procurement Code that was projected in 1979 will actually occur?

Ambassador BROCK. What did they say in 1979? They couldn't have come in here and guaranteed that we would have gotten $25 billion.

Senator DANFORTH. No, no guarantee, but just an estimate. The whole point of entering into the Agreement was that it would serve the interests of our manufacturers trying to sell in foreign markets, that it would be a good deal for the United States. And the estimated figure at that time was $25 billion in foreign government procurement. I was just wondering if it would be the same estimate if it were made today.

Ambassador BROCK. I think, in terms of the bid opportunity, a $25 billion bid opportunity clearly is possible under the Procurement Code. By no means does that guarantee we would get the business, but it does mean we would have an opportunity we have not had before.

As I mentioned in my testimony, we had something over 2,000 bid opportunities that we have identified in 1981 which were not available to us before.

Senator DANFORTH. How many of those did we get, do you know?

Ambassador BROCK. We don't know that. The survey is presently in the field on the part of our Government and other governments, and we are supposed to meet this fall for a meeting in which we exchange notes and information to see what we can pin down on that. It will be less than fully precise, but it will be a lot better information than we now have.

Senator DANFORTH. It is obviously one thing to put out a notice that there is going to be an opportunity to make a bid on something; it is quite another thing to make the deals.

Ambassador BROCK. Yes.

Mr. OLMER. Mr. Chairman, if I might make a comment, I didn't mean to imply that the optimism that was expressed at the time this code was urged on American business is necessarily warranted today. I think that we have gotten a little sophisticated ourselves at judging the reality of the situation, and I think we do recognize in a way we didn't then, that there are some unrealistic expectations. But we started from a point where we had nothing, so in a sense we are moving forward in an opportunity-creating situation.

It is interesting to note that of the 2,000 opportunities that have been published the Government of Japan is responsible for three

times as many as anyone else. And yet our success in Japan has not been significant.

Senator DANFORTH. But the whole point of any free-trade argument is that it is in the best interests of our people, that we can make sales, that we want to pursue a policy of free trade because we have the opportunity to sell what we created in other markets. And the Government Procurement Code was supposed to be a part of that strategy.

Are you of the view now that the position that was taken back in 1979 and the estimates were well founded? Or are we headed in the right direction with the Government Procurement Code? Or has it been a very marginal improvement of our situation, or no improvement at all?

Mr. OLMER. This is an unrehearsed answer. I think we have made some marginal improvements in our situation. I think that even though a lot of sales have not been registered with NTT that on balance I wouldn't rather be in Philadelphia. I think it was a good thing to do. It's the right direction to take.

Ambassador BROCK. I agree. I want to caution us against being such total supply-siders that we only talk about sales. You know, if we open up our markets, that simply means that we get to buy things more competitively, too. That's not bad, either.

Senator DANFORTH. No, it's not bad; but you would like to sell something, too.

Ambassador BROCK. Well, we sell pretty well, Senator. We still are selling more than we buy by a long shot. In all manufactured goods, all agricultural goods, all services, we are a very competitive country.

Senator DANFORTH. Yes, but we are talking about the Government Procurement Code.

Ambassador BROCK. I am aware of that.

It is an opportunity that we did not have 2 years ago. I think Ambassador Strauss, or whoever cut this deal, served the country well. It is up to us to make it work.

Senator DANFORTH. I visited last year with Mr. Shinto of NTT, and you have apparently visited with him more recently than I have, Lionel. But he said the same thing last year that he apparently said to you, that he was very interested in NTT making purchases from U.S. suppliers but that he was disappointed at the number of inquiries and the number of bids that have come from U.S. manufacturers.

I wonder why that would be so. It seems to me that there would be a couple of explanations for the limited number of bids that apparently have been forthcoming from U.S. suppliers.

One explanation is that we don't believe it, that American manufacturers do not believe that Japan is going to buy American products; we do not believe that NTT is going to buy American products; we don't believe that other countries are going to buy American products. They can solicit bids, they can put out information as to potential contracts, but that they are not going to end up buying what we make in the United States; so that it is a sham and why get involved in it and why go through the drill if we are not going to make sales? That is one explanation.

There is another explanation. The other explanation is that U.S. industry has just gone to sleep at the post, that we do not really operate in a competitive fashion ourselves. And this is something that the Japanese have been telling us for quite a while now. They say that they are willing to buy what we make in the United States. They say that they are not as protectionist as we have claimed that they are, and they say that the U.S. industry has been looking internally rather than externally, we have not availed ourselves of the opportunities that are there, and that basically American business is carrying around a lot of lead in its pants. Which, or both, of those explanations or some other explanation would you say would account for this phenomenon?

Mr. OLMER. I would say without any hesitation whatsoever that the larger reason relates to the first part of your proposition rather than to the allegation that American business is noncompetitive, fat, dumb, and happy, in the areas in which NTT is most interested.

Shinto's admission that NTT wants agreements with A.T. & T., with IBM, and with some other smaller and less well-known corporations in the United States is evidence of their recognition that Americans still have high technology innovation that is useful to the Japanese public.

I would like to offer for your record, Mr. Chairman, the results of a Japanese public opinion survey that Charles Wick of the International Communications Agency conducted. It is dated May 11. This is a public opinion poll in Japan.

[The information follows:]

Research Memorandum

Office of Research

USICA

May 11, 1982

For Versailles Economic Summit

JAPANESE PUBLIC OPINION ON VERSAILLES SUMMIT ISSUES

In April, USICA commissioned a national opinion survey in Japan. Key findings from this and recent Japanese surveys follow:

MACROECONOMICS AND INTERNATIONAL MONETARY ISSUES

Issue: Economic Policy Coordination

Public Opinion Climate for U.S. Policies

- Pessimism is pervasive about Japan's economic situation and the outlook for next year.
- The U.S. is seen as the strongest economic power.
- There is fairly widespread belief that U.S. economic policies are harmful to Japan.

* * * * *

A large majority (67%) of Japanese see their country in poor economic health, twice as many as did so a year ago. Moreover, few (6%) believe the economy will improve over the next year; far more (40%) think things will get worse.

Energy (55%) and inflation (50%) are seen as Japan's most important problems. Barriers to Japan's exports are mentioned by an appreciable minority (35%).

In the context of relatively low inflation and unemployment rates, the public splits over favoring government measures that decrease joblessness at the cost of continuing inflation (38%), or taking steps to reduce inflation at the risk of more unemployment (36%).

To the limited extent it is an issue, unemployment is most often attributed to domestic policies (52%) rather than the actions of other governments (19%). However, most of those assigning principal blame to external sources name the U.S.

On overall U.S. economic policies, twice as many believe they have been harmful (40%) rather than helpful (20%) to Japan's economic situation.

Apparently little is known about EC economic policies. A plurality (42%) express no opinion on whether they harm or help Japan's economy. Of the rest, slightly more see the EC policies as harmful rather than helpful.

About twice as many Japanese see the U.S. (40%) rather than Japan (22%) as strongest economically, but perceptions of Japanese economic supremacy have risen since 1981.

Issue: Exchange Rate Policy

Public Opinion Climate for U.S. Policies

- In the context of apparently limited public knowledge about exchange rate intricacies, relatively few perceive a strong U.S. dollar damaging Japan.

* * * * *

The public now sees the dollar as a strong (52%) rather than a weak (25%) currency, a significant upward shift since 1979 when the margin stood at 44 to 37 percent. Among those who see the dollar as strong, twice as many think it is a bad (23%) rather than a good thing (10%) for Japan. However, only somewhat more think the strong dollar results from deliberate U.S. policy than from conditions beyond U.S. control.

TRADE AND INVESTMENT

Issue: NTBs, etc.

Public Opinion Climate for U.S. Policies

- Free trade practices are barely supported over protectionism.
- U.S. trade policy is predominantly seen as harmful to Japanese exports; there is considerable uncertainty or ignorance about EC trade practices.
- There is no consensus on whether foreign imports are essentially beneficial or harmful to Japan.

* * * * *

By a narrow margin (45% to 36%), the public endorses a policy of fewer restrictions on trade over protectionist measures. The margin in favor of free trade has dropped significantly over the past three years. Moreover, about half those now favoring free trade would change their mind in harder economic times.

Significantly, the public believes by a wide margin that their government does not practice a free trade policy.

Perceptions of U.S. trade policies are prevailingly negative, with more seeing them as hindering (41%) rather than helping (25%) Japanese exports to the U.S.

EC trade policies seem unknown to many, with half (49%) expressing no opinion about them. Among the rest, somewhat more see the EC's policies hindering rather than facilitating Japan's efforts to sell goods in Europe.

Japanese are more or less divided on the bottom-line impact of foreign imports on Japan: slightly more believe that imports tend to increase unemployment (38%) than to reduce prices (29%). At the same time, the public sees the availability of goods at lower prices (41%) as the best argument against import restrictions.

Issue: Agriculture

Public Opinion Climate for U.S. Policies

- There is prevailing belief that freer trade in agriculture would lower food prices, but the public also tends to support limits on imports that might harm Japanese farmers.

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A clear majority (59%) believe that freer trade in agricultural products would tend to lower the cost of food in Japan. Only 17 percent foresee little impact on prices from freer trade.

Nevertheless, support for increases in agricultural imports is problematic. In March, the public favored (55% to 36%) limiting farm imports which "deal a blow to Japanese agriculture." And despite their high costs in Japan, only slightly more (50%) thought Japan should "import more American agricultural products such as beef and oranges" than were opposed (41%).

Issue: Investment

Public Opinion Climate for U.S. Policies

- Public opinion supports Japanese investment in the U.S.

* * * * *

In March, a large majority (70%) thought it good "for Japanese entrepreneurs to set up plants in the U.S. and increase job opportunities for Americans."

Issue: U.S.-Japan Trade Issues

Public Opinion Climate for U.S. Policies

- The public mainly sees the problems of the U.S. auto industry as self-inflicted.
- Opinion is divided over the reasonableness of U.S. demands for market access, but there is substantial willingness to take steps to improve trade relations.

* * * * *

In March, a majority (59%) saw the auto problem as caused by the U.S. auto industry itself rather than by increasing Japanese auto exports (27%).

In mid-April, opinion split evenly between those who think that strong U.S. requests for Japan to "open its markets more" to U.S. agricultural and industrial products are reasonable (46%) and those who think the opposite (48%). Nonetheless, a majority (56% to 36%) favored "accepting" the U.S. requests.

EAST-WEST ECONOMIC ISSUES

Issue: COCOM/Strategic Trade

Public Opinion Climate for U.S. Policies

- Views on trading with the Soviet Union are mixed.
- Widespread opposition exists to granting low interest loans and credits to the Soviet Union to promote trade.

- Coordinating trade policy with the U.S. is widely endorsed, even at the cost of losing some Japanese trade with the Soviet Union.

* * * * *

A majority (56%) of Japanese do not think their country's prosperity depends on trade with the Soviet Union; relatively few (21%) believe that it does. Moreover, very few (4%) see trade with the Soviet Union as a critical issue for Japan.

Nonetheless, only 18 percent think existing levels of trade with the Soviet Union should be reduced in light of events in Poland and Afghanistan. Considerably more (32%) think these events should not affect Soviet trade.

At the same time, the public believes (51% to 11%) Japan should make no special concessions to Moscow, such as low interest loans or credits, in order to further trade.

By a narrow margin, the Japanese also agree that Western nations, including their own, should have tight restrictions on selling high technology to the Soviet Union (36% to 29%). Last year, opinion split evenly (28% vs. 28%) on this issue.

The public appears quite uncertain about the political effects of buying energy from the Soviet Union. By a slight margin they believe such practices will make Japan vulnerable to Soviet political pressures (27%) rather than moderating Soviet actions (22%). However, a plurality (40%) express no opinion.

A majority (57%) prefer coordinating Japan's Soviet trade policy with the U.S. even at the cost of losing some trade. Only one in ten (9%) would risk harming relations with the U.S. to make the best possible separate deal with the Soviet Union.

ENERGY

Issue: Energy Security

Public Opinion Climate for U.S. Policies

- The Japanese public continues to see energy security as a k[illegible]blem for Japan.

* * * * *

Japanese rate oil and energy problems (55%) slightly ahead of inflation (50%) as one of Japan's two most important problems.

Prepared by:
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724-9351

M-5/11/82-A

Mr. OLMER. I would just like to call your attention to three conclusions:

Free trade practices are barely supported over protectionism;

United States trade policy is predominately seen as harmful to Japan;

And there is no consensus as to whether imports benefit or harm Japan.

Now, all of us have different opinions about pollsters and the utility of polls; but, to the extent that that may be accurate, and it was used as a paper to help guide the President's team in preparing for Versailles so I suspect that the results were scrubbed fairly carefully, it strikes me that any businessman is going to have one heck of a time competing in Japan. And we all know that.

Senator DANFORTH. Ambassador Brock, do you have any comments?

Ambassador BROCK. Well, I think I agree with Secretary Olmer that in this particular field the companies that are potential competitors are bright, smart, aggressive, tough, competent, and fully able of holding their own anywhere in the world.

Senator DANFORTH. Our companies?

Ambassador BROCK. Our companies.

I think there is one factor that does have to enter in the conversation that you did not mention, either one of you, and that is the fact that in the switching area you are dealing with intensely expensive and sophisticated equipment. I do think that it takes some time for the companies to move from a nonopportunity situation where they were prior to January of 1981 into a competitive circumstance to, frankly, gear up to do the market analysis, to put sales people in the field, to get them trained and competent in the problem area. That takes some time.

But I think, while I would not be so charitable about American business in general because I do think a lot of it has lead in its britches and sleep in its eyes, I think in this particular case we are competitive and would take the opportunity if in fact it were available. But that's exactly what we have to see in the next 12 months. We'll know.

Senator DANFORTH. Well, 11 out of 117 contracts—wasn't that your testimony? Eleven sales, all at the lower end of the technology spectrum?

Mr. OLMER. Yes. And I might say that overall in purchases by NTT from American corporations, more money was exchanged by purchases outside of the agreement than within the agreement.

Ambassador BROCK. That's right.

Senator DANFORTH. If NTT is reorganized, what does that do to the agreement?

Mr. OLMER. I think by the time it would be reorganized under the current plan, this agreement would probably have expired. In other words, this is a 3-year agreement, as I recollect.

Ambassador BROCK. Except for a renegotiation at the end of 1983 for a 3-year extension.

I think if we see real tangible opportunity in the next 12 months, then it would obviously be in our interest to extend the agreement for another 3 years. If we see no such progress, then it clearly would not be in our interest.

Senator DANFORTH. Are you talking about the NTT agreement?

Ambassador BROCK. Yes, NTT. But in either case—I think this is what Secretary Olmer is saying, and I thoroughly agree—if we have extended the agreement, it will be predicated upon successful bids, successful achievement.

Senator DANFORTH. But what I am asking is, if NTT is reorganized it is no longer even a quasi-governmental entity?

Ambassador BROCK. Legally, then, the agreement will no longer hold, but we will have established our market presence by sales, and we will be in a position to compete, I think. That's the answer I can give.

Senator DANFORTH. You don't view the reorganization of NTT as an escape from the agreement?

Ambassador BROCK. I don't think that Dr. Shinto views it as such. In all honesty, if others do, I don't think it reflects the management attitude.

Senator DANFORTH. Senator Heinz?

Senator HEINZ. Thank you, Mr. Chairman.

Mr. Olmer and Ambassador Brock, you mentioned in your statements a variety of things the United States is doing to try to make itself even more competitive in world markets.

We are all aware of the Export Trading Co. legislation that would give American exporters new tools, both singly and in combination with others, to more effectively compete overseas.

Senator Danforth and I are working and hope to conclude our work on reciprocity legislation here in the Senate this month to give us and you an additional tool to open up markets that might otherwise be closed to us, whether or not we pass an export trading company bill.

We are here today discussing the implementation of the means to open up the growing preserve of governments, other governments' procurement policies. That represents another very important element of giving our exporters a chance to compete.

I think, as Senator Danforth's questions have proved, those are all very, very important, including the latter.

Are there any other elements to achieving our international trade goals in terms of exports that we should be pursuing in addition to these three elements?

Ambassador BROCK. Pass the budget. [Laughter.]

Senator HEINZ. I agree. Anything else?

Ambassador BROCK. I can't think of anything that would be more important than that.

Senator HEINZ. We did that in the Senate.

Ambassador BROCK. Yes, I am aware of that.

Senator HEINZ. You are talking on the wrong side of the Capitol, Bill.

Ambassador BROCK. No, no. I am speaking across, Senator, you know that.

Foreign corrupt practices would be a great help.

Senator HEINZ. You certainly choose your words with great impact, Mr. Ambassador. [Laughter.]

I note that the author of the FCPA amendment is here, Senator Chafee.

Ambassador BROCK. I appreciate the Senator's leadership on the subject. It is an important battle for us, and we need to win it. It is still stalled in the House, but we do need those changes. They really are depriving us of economic opportunity which can be sought.

Senator HEINZ. In addition to the FCPA, are there any other elements that the Congress should put in place?

Ambassador BROCK. Senator, I hope you will watch with great, great care what happens in the next week. You mentioned 39 hours before we make certain decisions.

Senator HEINZ. Thirty-five, now.

Ambassador BROCK. We haven't been here 4 hours, have we?

Senator HEINZ. It may seem like it. I mean 38.

Ambassador BROCK. But, mentioning times, in less than a week we will know whether or not the European community has been able to agree to the export credit arrangement suggested under the OECD. That is a fundamentally important agreement. Twenty-two or twenty-three of the twenty-four parties have agreed to it, and the United States feels very strongly that that compromise is absolutely imperative to reduce trade tensions and to offer us a fully competetitive market-determined economic opportunity.

Senator DANFORTH. Mr. Secretary, if that agreement is not accepted, I would like to talk seriously to you about some options that the Congress might take.

Senator HEINZ. Well, I hope you will. It is not in the jurisdiction of this subcommittee; it is in the jurisdiction of the International Finance Subcommittee, but just like you were talking to Senator Chafee, you are now talking to the other——

Ambassador BROCK. It is an area in which you have a modest amount of interest.

Senator HEINZ. Is there anything else that we should be doing?

Mr. OLMER. I would like to offer you a bit of philosophy.

Senator HEINZ. Do we have time for that, Mr. Chairman? [Laughter.]

Mr. OLMER. The best kind is the short kind, and that's to maintain the white light of your interest and maintaining a degree of skepticism about the prospects the executive branch sometimes brings before you with respect to international agreements and what they are going to do for American businessmen.

I was in the private sector representing a high technology company at the time of the Government Procurement Code's consideration, and I recall urging on a number of Congressmen that a healthy measure of skepticism would serve the business community far more than a rush to applaud just another international agreement for its own sake.

Senator HEINZ. I would like to add one other item to the list, which so far includes the ETC bill, reciprocity legislation which you strongly support, the Procurement Code elements we are talking about today, the FCPA, and export credit subsidy negotiations which are being conducted. I don't know that I necessarily share, Mr. Ambassador, your enthusiasm for the export credit proposal we made, but there is one other area to mention, and that is the kind of massive domestic subsidy that, for example, the EC in agriculture and other countries have engaged. Those massive domestic

subsidies, while they don't fall under the export subsidy provisions of the 1979 Trade Agreements Act and the MTN, nonetheless are powerful in keeping our products out and in flooding world markets so that it's unprofitable even for efficient producers to do business.

It is a sad state of affairs when the efficient producer—and I don't know of anybody who has ever said that this country is anything less than the most efficient producer of wheat, of agricultural commodities, of specialty steel; that's quite a broad range—yet in all those areas we have farmers who can't make a dollar, who are suffering because of depressed world prices, because of massive domestic subsidy practices that is absolutely devastating world markets.

So I would hope that in the panoply of priorities that we've just described, that we would have a more aggressive attitude, and perhaps an even stronger policy on the issue of the kind of massive domestic subsidies that foreign nations engage in that in fact do affect international trade and dramatically so.

Would you agree with that?

Ambassador BROCK. I completely agree.

My understanding of your question is what actions can the Congress take. I am not sure that those are actions that necessarily fall onto the Congress. I think you have given us authority to negotiate away those practices. The question is what is the tactic by which we approach those negotiations.

I think the question is not for additional legal authority—we have plenty. The question is, in the negotiations can we find tactics that will lead to a resolution of the subsidy problem?

Senator HEINZ. Well, the reason I asked the question, and I apologize to Senator Danforth for ranging a little farther afield than the Procurement Code here, is that the week before last I introduced a bill to expand the authority of the Export-Import Bank in a critical area, which is to offer medium or shorter medium term credits for agricultural commodities in order to meet the direct challenge of domestic credit subsidies that have the effect of subsidizing the export of foreign agricultural commodities.

I don't know if you have taken a look at that provision. The Export-Import Bank has never before offered that kind of, if you will, retaliatory support for our agricultural commodities; but it seems to me that there may be a very strong case here for being tough.

You have endorsed the war chest bill, both of you, which is aimed at merchandise trade. The war chest bill is designed to demonstrate to Europeans and others that we are serious about the principle that if you are going to come in and do things that we believe are inconsistent with the arrangement or with the Subsidies Code, that we are going to fight you until you realize that you can't profit, that we are not going to unilaterally disarm in any trade war. This same logic is true for that provision I just mentioned.

Do you have any comment on that?

Ambassador BROCK. I frankly can't disagree that we have to either negotiate an end to the abuse or we have to compete. I would be most interested in exploring the Ex-Im idea. I would men-

tion that there is already on the books a law providing for just a nominal credit revolving fund for agricultural prices; but the problem is that it is not focused on the problem that you mentioned. It is generally available.

But of course our funding problems have caused us some delay in the ability to implement that.

Senator HEINZ. We also try to address those problems, too.

Ambassador BROCK. I know. Good luck.

Senator HEINZ. Your support is appreciated.

Ambassador BROCK. Thank you.

Senator DANFORTH. Senator Chafee?

Senator CHAFEE. Thank you, Mr. Chairman.

First, Mr. Chairman, I would just like to say how much we appreciate the tremendous leadership you have given in this entire trade matter, particularly in assuring access to the greatest extent possible of American goods into the foreign markets. You have really been the leader in this area. And this oversight hearing that you are conducting today is one more example of that.

Mr. Ambassador, following up with the question Senator Heinz asked, and I'm sorry that I wasn't here for the whole series of questions, but I gather that his question was: What can we do here to help further advance the cause we are all interested in; namely, increasing our exports to the greatest extent possible? And you mentioned the changes in the Foreign Corrupt Practices Act which you are working on in the House. Could you give us a little report on how things look there?

Ambassador BROCK. They are intolerably slow, Senator. I don't see any evidence of movement.

The problem with that, and frankly with other trade legislation in which we have a very significant interest such as the Caribbean Export Trading Co., a lot of issues are caught up in this budget fight that have nothing to do with the budget at all. But the House is diverted from some affirmative opportunities by the dilemma in which it finds itself on the budget and the deficit.

Whether or not that will change in the immediate future, I guess we don't know. But so far, I think we have been unsuccessful in convincing the House committee that there is an urgency about this task. I'm not sure what other steps need to be taken, but I have been unsuccessful in convincing that committee that you are talking about a heck of a lot of jobs in this country, jobs that are not available to Americans today. Americans are unemployed because this Congress has not gotten its act together to reform a bill that it wrote with good intentions but bad language.

Senator CHAFEE. Mr. Ambassador, is it a problem in the full committee or the subcommittee, or both?

Ambassador BROCK. The subcommittee, Mr. Chairman, as far as I can tell. We had another hearing yesterday, and a year and a half into this particular Congress we have not been able to get a legislative or a markup hearing at all in the subcommittee.

Senator CHAFEE. And then I don't know whether this has come up, if it has you can just summarize, but the chairman pressed the Trading Companies Act—export trading companies—and we passed that here. Where is that?

Ambassador BROCK. There seems to be a little bit more movement there. We did get favorable action in the subcommittee of the Judiciary Committee.

The additional complication of the export trading company bill is that it has been jointly referred.

Senator CHAFEE. To the Banking Committee and the Judiciary Committee?

Ambassador BROCK. Yes. So it has been a little bit stalled by that process. But we do think there is prospect of some reasonably early movement there and action that could result in a bill in the next few weeks, I hope.

Senator CHAFEE. Well, certainly the chairman of the House Banking Committee was very enthusiastic as to his section of it.

Ambassador BROCK. The chairman of the House Banking Committee has evidenced some concern with a couple of sections, but he has also been very willing I think to consider the bill and to bring it to a conclusion. And I think that's important.

Senator CHAFEE. Now, on the Government Procurement Code, what about small business? Are they able to get in on the opportunities, or is this pretty well restricted to the giants? Mr. Olmer, what would you say to that?

Mr. OLMER. I would say that the chances of a large company successfully competing for foreign government procurements is far greater than that of a small businessman.

We are doing some things to increase the odds and the opportunities for the small- and medium-sized businesses, and I indicated earlier that I think the export trading company legislation will advance that proposition very fast and very far.

There is no way short of the kinds of efforts we are making at publicizing and counseling and instructing that I can think of that will make it possible for a small businessman to deal with the high technology requirements and with an understanding of the Government Procurement Code, which is quite complicated, in a foreign language without adequate representation abroad or the money to expend to if not be represented abroad at least have an agent in some form assist that process. The Federal Government will not be in a position to substitute for that private sector initiative.

Senator CHAFEE. I see. Well, thank you very much.

Thank you, Mr. Chairman, and thank you, gentlemen, both.

Senator DANFORTH. Thank you, Senator Chafee.

I have two additional questions, one a followup on Senator Chafee's.

As I understand the Code, it provides for a 30-day notice before a contract is entered into. Now, that notice would be given in the other country, and would it be given in the language of the other country?

Mr. OLMER. Yes, sir. A code language. It could be in English or in French.

Senator DANFORTH. But it could be in the language and probably would be in the language of the other country, wouldn't it?

Mr. OLMER. And Japanese, yes.

Senator DANFORTH. And Japanese. And particularly for say, high technology matters, it could be that the contract would be quite complex.

Mr. OLMER. We receive from NTT, for example, on a very timely basis, short notices of pending tender opportunities, and our Embassy arranges to have that translated and wired back to Washington.

The turnaround time is adequate to provide the business community sufficient notice.

Senator DANFORTH. Do you think it is adequate?

Mr. OLMER. Yes, sir.

Senator DANFORTH. Do you mean if the solicitation for bids were put out in Japan in Japanese, and there were 30 days to respond—it would seem to me that the dissemination of information, the translation, the studying of the contract, particularly for a small business, would be extremely short.

Mr. OLMER. If you are talking about widening or increasing the number of U.S. firms in America, without foreign representation, who have never done it before, the notice is completely inadequate.

Senator DANFORTH. Is that going to be considered when this is looked at in another year and a half?

Mr. OLMER. Well, it's being looked at now. Yes.

Senator DANFORTH. The length of time?

Mr. OLMER. Yes, indeed.

But I would say that there is a process of prequalification; so that, given companies who are interested in not responding in an ad hoc fashion, they can make representations to NTT and get their firm qualified.

Once they get in sort of the regimen of responding, then that 30-day notice is not an inadequate period.

Senator DANFORTH. But not just NTT. I mean, NTT is a lot of fairly large, as you pointed out, suppliers. But in the general field of Government procurement, a 30-day turnaround time is pretty short, isn't it?

Mr. OLMER. It is pretty short.

Senator DANFORTH. And are we going to analyze this and possibly renegotiate that in another year and a half.

Mr. OLMER. I'm sure it will be one matter for consideration. Yes, Senator.

Senator DANFORTH. The other question, and really the final question that I have, you don't have the numbers now showing whether or not the Government Procurement Code is meeting the expectations which we hoped for back in 1979?

Ambassador BROCK. No.

Senator DANFORTH. But when we next look at this issue a year and a half hence, you would believe, wouldn't you, that the proof of the pudding will be how we actually perform? That is, will it be appropriate at that time to analyze the effect of the Government Procurement Code on the basis of actual sales made?

Mr. OLMER. And comparing them to sales by foreign suppliers to American Government procurements.

Senator DANFORTH. That's right. Therefore, we should have at that time some numerical analysis. If it turns out that the Government Procurement Code means that we are making more sales to foreign suppliers than we otherwise would have made, and if it turns out further that we are making very few sales to other gov-

ernments, then it would not appear to be a very good deal for the United States.

Mr. OLMER. I'm not sure that that conclusion would be entirely warranted, because there are today, and I suspect a year from now there will be more, areas not served by U.S. suppliers. In other words, there is a dependency on imports. There is such a dependency in some critical areas of high technology today. I expect that that trend is going to increase, so I wouldn't want to say that we should close our Government procurement to foreign suppliers in areas where there is a net benefit to us.

Senator DANFORTH. I am not sure I followed you on that. Do you mean there are some things that we are going to have to procure from beyond our borders in any event?

Mr. OLMER. Oh, yes.

Senator DANFORTH. Yes, surely.

But as I understand it, what we were trying to do back in 1979 was to open up new markets to U.S. sales. And whether or not that has been accomplished will be reflected in actual sales that are made. And there will be a numerical analysis.

Mr. OLMER. It will be a numerical analysis, but I wouldn't want the response to be on a narrow sectoral basis, I suppose.

Senator DANFORTH. I have heard that before.

Ambassador BROCK. And you will hear it again, too.

Senator DANFORTH. OK. [Laughter.]

Ambassador BROCK. I think that's a fair statement, though. I think you have got to look at this thing in two lights: One, what did we have to achieve when the agreement was reached in 1979, which was an opening up of other markets.

You know, Senator, we always enter these problems from a point of disadvantage, because by and large our markets are open. And we don't have a great deal of negotiating authority to get others to open.

If you look at what is not covered by the Procurement Code, it is an awesome area—telecommunications, except for Japan, heavy electrical is not covered. We cannot even bid on these things.

So I think we have made some progress, but the proof will be in the pudding on what we have covered to date. We will know that by the end of 1983. You're right.

Senator DANFORTH. What we are eventually going to have to say to the American people is if we are going to advocate free trade, it is in their best interests.

Ambassador BROCK. That's right.

Senator DANFORTH. And that is not just a question of the cost of whatever we are buying or consumer choice; it has to do with jobs, and it has to do with being able to make in this country something that we can sell to other parts of the world. And that is going to be the test of Government procurement and everything else.

It is just simply not going to be enough to have a very nice looking agreement, which is entered into with great fanfare as to the markets that it will open up, and then end up after 3 years with very few markets being opened up, very few sales having been made, and then we will have to come back and say, "Well, it didn't really meet the expectations that we had, but for cosmetic reasons or philosophical reasons it is still a nice thing to do."

Mr. OLMER. Even worse than that, Senator, would be the actions consequent to unrealistic expectations.

I mentioned the underlying concern that many American companies have that these "new opportunities" are just really a hole in the ocean they are trying to fill. They can spend an absolutely staggering amount of time and precious energy in an effort to sell something that the foreign government knew all along it wouldn't allow.

Senator DANFORTH. That's absolutely right. I mean the whole business of the Suzuki government in Japan purportedly opening Japanese markets to American goods, reducing trade barriers, and so on. The worst thing that could happen would be that all of the public relations accompanying those announcements would be followed up with nothing.

Mr. OLMER. Senator, I believe in the sincerity of Prime Minister Suzuki's statement. And for cynicism we have the French connection, which has not been exceeded in my observation.

Senator CHAFEE. The problem that I find so frustrating here is that we have such trouble getting our own house in order as far as clearing the decks for effective competition.

As the Ambassador mentioned, we can't even get the Foreign Corrupt Practices to have a decent hearing, a markup in a subcommittee—never mind a full committee, never mind getting passed—even giving it some attention.

Now, here is clearly a detriment to our foreign trade. And so it goes with the Export Trading Company Act. It has been floundering around over there, and nothing happens.

Now, I notice, Mr. Olmer, in the final part of your statement, you say:

> American firms must recognize that it will take large amounts of time and resources on their part to make sales to foreign governments. As this committee well knows, it is not easy to do business with a foreign government.
>
> The Department of Commerce will continue to assist in every way, yet in the final analysis it is industry's responsibility to move aggressively.

Now, what kind of a report card would you give to American industry as far as moving aggressively and competitively to establish a position in overseas government procurement markets? Or knock out "government procurement markets," just "overseas markets."

Where do you rate U.S. industry on the scale of 10?

Mr. OLMER. Senator, we export some $230 billion worth of goods a year—that's goods, I believe—and we do pretty well in a lot of different areas.

The problem is not endemic to American corporate life. The problem of failing to penetrate foreign markets is not one that can be assigned responsibility across the board in American business. Some businesses such as the high technology sector are very effective and very good, and far better than virtually anyone anywhere in the world.

Some sectors of our economy are not so good. We've got some shining examples, but we've got a lot of room for improvement.

Senator CHAFEE. Well, we've had testimony after testimony in the Banking Committee when we are dealing with the foreign corrupt practices. The fact is that the American market is so large itself and so potentially profitable, and everybody knows the lan-

guage and how to do the business, so that's where they compete. Well, I'm preaching to the choir. You know all this.

Well, I certainly hope that we can do everything we can here in the Senate and in the House to get rid of these impediments.

If you can think of anything else we should do—as I got your answer, Mr. Ambassador, to Senator Heinz, you didn't have anything in particular you felt we should be doing here in the Senate. Is that correct?

Ambassador BROCK. Senator, you have done nobly.

Senator CHAFEE. We are not looking for kudos. We are always glad to accept them, but we are looking for further challenges.

Ambassador BROCK. I am always reluctant to encourage the Congress to seek new challenges, Senator. [Laughter.]

You've done all right so far.

Senator CHAFEE. Well, seriously, you know our attitude here, and if there is anything else you think we ought to do, you let us know.

I have always used the figure, and I don't know whether it is accurate, $1 billion in exports equal 40,000 jobs. Now, I've seen that vary around. Is that what you use, Mr. Olmer?

Mr. OLMER. Yes. It's a good estimate. It is a lot of jobs we are talking about, an awful lot.

Senator CHAFEE. Well, fine. We appreciate it very much, both of you.

Senator DANFORTH. Senator Grassley, we are about to wind up. Would you like to ask a question or make a statement?

Senator GRASSLEY. No. I'm sorry I'm late. Is the whole meeting over now? [Laughter.]

Senator DANFORTH. Just about.

Senator CHAFEE. You're just in time.

Senator GRASSLEY. Well, at least I won't make the sin of going back to the hearing. [Laughter.]

Senator DANFORTH. Let me ask you this. The so-called reciprocity bill is scheduled to be marked up next week, I hope. Ambassador Brock, your office will have somebody present, I'm sure, at that markup, expressing your views on any amendments which I hope will not be but may be offered.

Ambassador BROCK. We will be here, Senator, and I personally hope we can avoid the amending process. I think we have made a great deal of progress. I am most encouraged by the apparent agreement on an effective, positive approach to this problem, picking up of some of the initiatives of Senator Chafee and others, and some of the services area that we very much welcome.

I think we are making progress. I hope we can proceed to complete it soon.

Senator DANFORTH. Thank you very much.

Senator CHAFEE. Ambassador Brock, thus, you and the Administration are supporting the bill that will come up for markup?

Ambassador BROCK. Senator, we have not seen a final form, so it is a little difficult to make that as a categorical statement, and there may be other agencies that have modest areas of concern.

I don't think there are major areas of differences left. I think most of the problem areas have been resolved.

Senator CHAFEE. Thank you.

Senator DANFORTH. Thank you very much, gentlemen. That concludes the hearing.

[Whereupon, at 10:25 a.m., the hearing was concluded.]

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